

Minutes of the Meeting of the
Arizona Game and Fish Commission
Friday, August 12, 2005 – 8:00 a.m.
Saturday, August 13, 2005 – 8:00 a.m.
Museum of Northern Arizona
3101 N. Fort Valley Road
Flagstaff, AZ 86001

PRESENT: (Commission)

(Director's Staff)

Chairman W. Hays Gilstrap
Commissioner Michael M. Golightly
Commissioner William H. McLean
Commissioner Robert Hernbrode

Director Duane L. Shroufe
Deputy Director Steve K. Ferrell
Assistant Attorney General Jim Odenkirk
Assistant Attorney General Shelley Cutts

Chairman Gilstrap called the meeting to order at 8:00 a.m. The Commissioners introduced themselves and Chairman Gilstrap introduced the Director and the Director's staff. Commissioner Melton was not present at this meeting. This meeting followed an agenda revision dated August 8, 2005.

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1. Update on Current Issues, Planning Efforts, and Proposed Projects on State and Federal Lands in Arizona and Other Matters Related Thereto

Presenter: Bob Broscheid, Habitat Branch Chief

A copy of the Lands Update report was provided to the Commission prior to today's meeting and is included as part of these minutes. The update addresses decisions or activities since the June 2005 Commission meeting. This update is in fulfillment of the Department's commitment to brief the Commission on a regular basis regarding decisions and actions on all state and federal lands in Arizona.

Mr. Broscheid further briefed the Commission on the Bureau of Land Management's (BLM) ongoing planning efforts and statewide plans to be released and the projected timelines. The Department is heavily involved with BLM through a shared position to complete these plans and to review and sign off on some of these plans.

The first one is the Lake Havasu Field Office Environmental Impact Statement (EIS) and Resource Management Plan (RMP). This replaces portions of the Yuma Resource Area, Kingman Resource Area, Lower Gila North Resource Area, and Lower Gila South Resource Areas. This will be one document with one decision. The Lake Havasu draft EIS has been submitted to the State Office for final review and comments. A State Office briefing will be given to the BLM State Director in the next few weeks for evaluation. If approved, it will be sent to the printer with a scheduled release in late September or early October. The State Director is committed to working with Director Shroufe on that plan.

The Agua Fria National Monument and the Bradshaw-Harquahala EIS and RMP covers portions of the Phoenix Area and the Northern Gila North. One EIS will be completed with two records

of decisions and two RMPs. These plans are nearing completion and these documents have also been submitted to the State Office for approval. Potential release to the public should be late September or early October.

The Arizona Strip, the Grand-Canyon Parashant, and Vermillion Cliffs National Monuments are one EIS with three records of decision. This is the third plan in order of possible releases to the public. The Field and State Offices are working on final edits. Because the National Park Service is a signatory to the Grand Canyon-Parashant National Monument, there will be a briefing in Washington, DC to National Park staff and BLM officials. They are looking at a public release sometime in October or November for that document.

The Phoenix South and Sonoran Desert National Monument, the release to the public should be later this year. This one still needs a lot of work to be completed. Currently, the Yuma Field Office is working to finish the draft preferred alternative.

The Ironwood Forest National Monument falls within the Tucson Field Office Planning Area, but within the Phoenix Resource Area. One EIS will be completed with one record of decision. There are workshops scheduled for late August, but no exact dates have been determined.

The Kingman Field Office has initiated their planning process with agencies and other stakeholders, including the Department. They are conducting evaluations of the existing RMP, completed in 1995, to identify upcoming issues for the RMP scheduled for sometime between 2009-2010, depending on funding.

In conclusion, the Department will continue to update the Commission as to any changes in these projected timelines. The Commission will also be provided with a complete overview of these plans, which will include the language that is included for wildlife and wildlife management purposes as well as recreation. Updates to the plans will be provided as they become more finalized.

Commissioner Golightly commented for the record on issues related to the Big A Allotment. He understands that BLM is now cooperating with the Department in that area. Since the last Commission meeting, a brush fire wiped out a significant portion of grazing area on the upper slopes of that allotment, which is right in the heart of bighorn sheep habitat. Commissioner Golightly reminded Mr. Broscheid that the Department needed to participate in some type of habitat restoration with BLM, while focusing on the Big B Allotment, which did not burn. There is still concern with habitat issues in Region III.

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2. Briefing by the U.S. Forest Service Regarding the Use of Domestic Goats for Fuel Reduction Purposes in Wildland-Urban Interface areas in Arizona.

Presenter: Bob Broscheid, Habitat Branch Chief

In an effort to remove fuel loads and reduce the risk of fire within the Wildland-Urban Interface (WUI), the Forest Service is using herbivore treatments (i.e., goats) as a management tool to accomplish these objectives. Herbivore treatments are being used in areas where the use of

prescribed fire may not be feasible or appropriate (e.g., high levels of smoke). These operations require a high-level of expertise, monetary investment and time in order to meet project goals, objectives and associated mitigation. Logistical considerations include the amount of fencing and personnel required to manage the goats, the level of health and disease inspections currently being implemented, and potential impacts to target and non-target plant species and wildlife habitats. The Department has also been coordinating with the Forest Service to reduce the potential for disease transmission between domestic goats and wildlife.

The Department has been updating the Commission on recent projects on Forest Service lands that involve several fuel reduction treatments to help reduce the risk of wildfire around the communities of Payson and Globe. One such treatment is the use of domestic goats, coupled with prescribed fire, and is being used in an effort to modify fire behavior through changing the characteristics of fuel loads and continuity. The objective of the project is to create a mosaic of treated areas through a reduction in brushy vegetation. The Department has been working cooperatively with the Forest Service to consider and address potential negative direct and indirect impacts between domestic goats and wildlife resources. Recently, the Department reviewed two projects proposed by the Forest that involves the use of goats: the Pinaladera Fuels Management Project (use of goats is one of several prescriptions) and the Payson WUI Goat Project.

Forest Service Representative, Chris Thiel, Supervisory Range Management Specialist for the Payson and Pleasant Valley Ranger District, Tonto National Forest, was present, and using a slide presentation, provided the Commission with an overview of the Forest Service's use of domestic goats for fuel reduction purposes. Ms. Thiel briefed the Commission on the use of domestic goats in Wildland-Urban Interface areas. The briefing included the history of using goats, the objectives in using them, how the goats are managed, and how the needs and concerns in regards to wildlife resources are considered and addressed in the planning process.

Commissioner Hernbrode commented that the impacts on habitat from goats was short-term and that the forage would grow back, to which Ms. Thiel stated that was correct and that she can see goats as potentially being used to maintain it.

Commissioner Golightly asked about public concern for over grazing.

Ms. Thiel stated that goats graze the brush down to where it looks like a fire went through, except that it is not black, but that people understood that this was a fire reduction effort.

Commissioner Golightly asked what can be done for diseases, such as vaccinations, and further stated that cattle seem to go through a much more cautious examination to prevent disease.

Ms. Thiel stated that she wasn't sure about vaccinations, as she was not a veterinarian, but that goats were inspected for illness and disease, and goats from out of state were tested.

Chairman Gilstrap asked about the burning process after the use of goats.

Ms. Thiel stated that this fall, during the cool season, would be the first opportunity to do the burn.

Chairman Gilstrap invited Ms. Thiel to return with an update after the burn.

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3. Consent Agenda

The following items were grouped together and noticed as consent agenda items to expedite action on routine matters. These items were provided to the Commission prior to this meeting and the Department requests that the Commission approve these matters as presented, subject to approval or recommendations of the Office of the Attorney General. All items were presented to the Commission and none were deemed necessary to remove for further public input or discussion.

3.a. Request for the Commission to Approve a New Cooperative Agreement with the City of Show Low for the Continued Use and Maintenance of a Trail through Commission-owned Property at Fool Hollow Lake, Navajo County, Arizona.

Presenter: Bob Broscheid, Habitat Branch Chief

This new Cooperative Agreement with the City of Show Low provides for the continued use of Commission property in Show Low as a link between the urban trail system and the White Mountain Trail System. The Cooperative Agreement provides for the City's limited use and maintenance of the property and trail.

The Department recommends that the Commission VOTE TO APPROVE A NEW COOPERATIVE AGREEMENT WITH THE CITY OF SHOW LOW FOR THE CONTINUED USE AND MAINTENANCE OF A TRAIL THROUGH COMMISSION OWNED PROPERTY AT FOOL HOLLOW LAKE, NAVAJO COUNTY, ARIZONA, AND AUTHORIZE THE DIRECTOR TO EXECUTE THE AGREEMENT AS ATTACHED OR AS RECOMMENDED OR APPROVED BY OFFICE OF THE ATTORNEY GENERAL, AND TO AMEND OR EXTEND THE AGREEMENT AS NECESSARY.

3.b. Request for Commission to Approve the Renewal of the Cooperative Agreement Between the Arizona Game and Fish Commission, MLY Ranch, and X Diamond Ranch.

Presenter: Bob Broscheid, Habitat Branch Chief

Through the acquisition of the deeded portions of the Grasslands Wildlife Area, the Department also acquired state grazing lease lands that are administered by the State Land Department. A total of 5,967 acres are jointly managed for wildlife and livestock grazing purposes through a Livestock Grazing Lease and the attached Cooperative Agreement. These lands are subleased to the grazing sublessees (the MLY Ranch and X Diamond Ranch). A Cooperative Agreement between the Commission and the grazing sublessees has been updated and a copy is attached. This document identifies terms, conditions and responsibilities of both the Department and the grazing sublessees for management of the state livestock grazing lease lands and other considerations including development and maintenance of fences, development of water for livestock and wildlife purposes, use and maintenance of existing ditches, and other day-to-day ranching operations.

This Cooperative Agreement is consistent with the direction provided by the Commission at the March 11, 2005 meeting.

The Department recommends that the Commission VOTE TO APPROVE THE RENEWAL OF THE COOPERATIVE AGREEMENT BETWEEN THE ARIZONA GAME AND FISH COMMISSION, MLY RANCH, AND X DIAMOND RANCH AND AUTHORIZE THE DIRECTOR TO EXECUTE THE AGREEMENT AS ATTACHED OR AS RECOMMENDED OR APPROVED BY THE OFFICE OF THE ATTORNEY GENERAL.

3.c. Request for the Commission to Approve the Renewal of the State Grazing Leases Acquired with the Purchase of the Cross L and Ocote Ranches (Grasslands Wildlife Area) to the State of Arizona and to Approve the Renewal of the Associated Sub-leases for Grazing the Leased Lands Identified in the Grasslands Wildlife Area Grazing Plan to the Current Livestock Operators.

Presenter: Bob Broscheid, Habitat Branch Chief

Four State grazing leases were purchased by the Commission with the acquisitions of the Cross L and Ocote Ranches, now referred to as the Grasslands Wildlife Area. The grazing leases and associated sub-leases expire on September 8, 2005.

The livestock operators own and share additional common land, land access, water rights, and grazing lease resources with the Department, which are important to the management of the wildlife area and their livestock operation. Because of this shared interest in the land, and because the Commission's parcels are not contiguous and require access through private and ASLD parcels, the Department and Commission opted to continue the sub-lease agreements and work closely with the livestock operators to achieve both our goals in this area.

The Commission's primary goal is to manage the wildlife area and property resources, including water rights in the best interest of wildlife, particularly sensitive species such as the Little Colorado spinedace and the mountain plover, while at the same time cooperating on a grazing management plan with the owners of adjacent lands in the area. The Department believes that maintaining our grazing leases and continuing the grazing sub-leases is in the best interest of all stakeholders at this time.

The renewal of the grazing leases and subleases is consistent with the direction provided by the Commission at the March 11, 2005 meeting.

The Department recommends that the Commission VOTE TO APPROVE THE RENEWAL OF THE STATE GRAZING LEASES ACQUIRED WITH THE PURCHASE OF THE CROSS L AND OCOTE RANCHES AND TO APPROVE THE RENEWAL OF THE ASSOCIATED SUB-LEASES TO THE CURRENT LIVESTOCK OPERATORS.

3.d. Request for Commission to Approve the Renewal of a Roadway Easement Agreement at Commission-owned Cunningham Tracts with the U.S. Forest Service, Tonto National Forest.

Presenter: Bob Broscheid, Habitat Branch Chief

In 1994, the Commission approved the Roadway Easement Agreement for roadway use purposes with the Tonto National Forest though Commission owned Cunningham Tracts near Young, Arizona. This agreement expired on June 28, 2004, and renewal was not requested by the Forest Service because of the pending land exchange for the Bellemont Shooting Range. The agreement is offered without cost to the Forest Service as the Forest Service provides Special Use Permits to the Commission without cost. The term of the lease renewal is for ten years.

Since the Cunningham Tracts were purchased in 1951 with federal assistance from U.S. Fish and Wildlife Service (USFWS), this agreement is also subject to their approval.

The Department recommends that the Commission VOTE TO APPROVE THE RENEWAL OF A ROADWAY EASEMENT AGREEMENT AT COMMISSION OWNED CUNNINGHAM TRACTS WITH THE U.S. FOREST SERVICE, TONTO NATIONAL FOREST AND AUTHORIZE THE DIRECTOR TO EXECUTE THE AGREEMENT AS ATTACHED OR AS RECOMMENDED OR APPROVED BY OFFICE OF THE ATTORNEY GENERAL. THE ROADWAY EASEMENT AGREEMENT IS SUBJECT TO THE APPROVAL OF THE UNITED STATES FISH AND WILDLIFE SERVICE.

3.e. Request for the Commission to Approve the Agreement for a Permit with Arizona Public Service for the Purpose of Continuing Service for Construction, Operation, and Maintenance of Electric Poles and Lines That Provide Electricity to Ben Avery Shooting Facility, Maricopa County, Arizona

Presenter: Bob Broscheid, Habitat Branch Chief

Arizona Public Service (APS) has requested that Agreement number KR97-0265-EQS for right-of-way for the purpose of continuing service for construction, operation, and maintenance of electric poles and lines providing electricity to the Ben Avery Shooting Facility be extended. The Department has determined that the electric service is necessary for operation of the Ben Avery Shooting Facility and of direct benefit to the Commission. This right-of-way is in the public interest and consistent and compatible with the operation of the Ben Avery Shooting Facility. Fees have been recommended at \$420.00 for the term of the Agreement. The five-year Agreement will remain current through December 31, 2009.

The Department recommends that the Commission VOTE TO APPROVE THE AGREEMENT FOR A PERMIT WITH ARIZONA PUBLIC SERVICE FOR THE PURPOSE OF CONTINUING SERVICE FOR CONSTRUCTION, OPERATION AND MAINTENANCE ELECTRIC POLES AND LINES THAT PROVIDE ELECTRICITY TO BEN AVERY SHOOTING FACILITY, MARICOPA COUNTY, ARIZONA, AND EXECUTE THE AGREEMENT AS ATTACHED OR AS RECOMMENDED OR APPROVED BY THE OFFICE OF THE ATTORNEY GENERAL.

3.f. Cooperative Agreement ("Agreement") between the Commission and Bullhead River Front Investments LLC (Bullhead River Front Investments).

Presenter: Bob Posey, Kingman Regional Supervisor

The Department requested that the Commission approve a Cooperative Agreement between the Department and Bullhead River Front Investments to allow for the removal of soil material from Commission owned land.

Bullhead River Front Investments has requested that the Department enter into an Agreement that will allow for the removal of soil materials from the Colorado River Nature Center. The lands affected by and addressed in this agreement are Arizona Game and Fish Commission lands.

Bullhead River Front Investments is in need of soil material in order to complete a development project just north and adjacent to The Colorado River Nature Center. The removal of soil material is beneficial and critical to the implementation of the Department's Section 10 Backwater Wetlands plan and the Section 10 Backwater Wetlands Phase II plan. The Department has also met with or contacted the Bureau of Land Management and Bullhead City to gain their concurrence for the project. In addition the US Army Corps of Engineers has also been contacted and all entities agree that the project will provide mutual benefit for the Department and Bullhead River Front Investments. Department representatives have met with representatives of Bullhead River Front to identify opportunities of mutual benefit and the subject Agreement reflects this effort.

The Department recommends that the Commission VOTE TO APPROVE THIS COOPERATIVE AGREEMENT BETWEEN THE DEPARTMENT AND BULLHEAD RIVER FRONT INVESTMENTS LLC.

Motion: Golightly moved and McLean seconded THAT THE COMMISSION VOTE TO APPROVE THE DEPARTMENT RECOMMENDATIONS ON THE CONSENT AGENDA ITEMS 3.A THROUGH 3.F AS PRESENTED.

Vote: Unanimous
Melton absent

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4. State and Federal Legislation

Presenter: Anthony Guiles, Legislative Liaison

The Highway Bill was recently signed by the President that includes over 2 billion dollars in funding that will benefit wildlife and sportsmen. They captured the 4.8 cents of the remaining 18.3 from the motorboat fuel tax that will all go back into the Aquatic Trust Resource Fund, so they are predicting about 110 million dollars-plus will go back to the states. What this means to Arizona is very relevant.

There was a State Trust Land Initiative filed for petition at the Secretary of State's office. If the Commission so desires, the coalition is willing to make a presentation to the Commission on that specific initiative at the September Commission meeting to address any questions that the Commission or our constituents may have.

The Commission gave a consensus that they would like that presentation, and further requested a copy of the initiative and the Department's analysis of it.

In regards to legislative proposals, the Governor's Office has asked for a rough idea of what the Commissions' agenda will be for the legislative year 2006. Some of the proposals the Department is bringing forward to the Commission are: 1) The Watercraft Supplemental Budget. Senate Bill 1365, passed last year by the legislature, increased the Department's watercraft fees and added about 2.7 million dollars of additional funds to the Watercraft Fund. So it may be appropriate now to go to the legislature and ask them for about \$800,000 in additional appropriations. We do a two year cycle, so this would be an out-of-cycle appropriation from the legislature. Mr. Guiles provided the Commission with a handout showing where the \$800,000 would be spent. This item is addressed in agenda item number 9; 2) Another legislative item is the Employee Compensation Package, addressed in agenda item number 10; 3) We are still working on drafting OHV legislation, which was addressed at the June Commission meeting; 4) Wildlife Feeding is another item. This one was up last year, but not as a Department sponsored bill; however, we did work with some of our partners in drafting that legislation. We would like to redraft that legislation and see it introduced as a Department proposal this year; 5) and lastly, a broader package for License Revocations and Civil Process Enhancement. Commissioners Gilstrap and McLean have been working with sportsmen and Representative Weiers at the Legislature. This is a proposal the Department brought forward last year and it was decided not to move forward with it at that time and concentrate on the license fee increase. We are continuing to draft this and a copy of the working draft was provided to the Commission. Items can still be taken out or included. One of the things the Department would like to see in this package is the hunter harassment issue. This is an issue that came up in the Sandhill Crane hunt. There are also a couple other issues that haven't been discussed that we want included in the draft. In conclusion, these are the five items the Department would like Commission direction to move forward with.

Commissioner Hernbrode clarified with Mr. Guiles that the Wildlife Feeding Bill did not prohibit bird feeding. Additionally, Commissioner Hernbrode questioned why this was not in Title 17 rather than the criminal code Title 13. He would like to see an analysis of why it needs to be in one place or the other.

Mr. Guiles offered to provide that analysis to Commissioner Hernbrode and the other Commissioners.

Commissioner Golightly requested Mr. Guiles to look at stiffening the penalty for aircraft harassment of hunters and wildlife, and whether it is a statute or a rule problem.

Chairman Gilstrap commented that in regards to the license revocation legislation, there is potential for legislation that may relate to the Watercraft Fund on some special appropriations, so we will want to work closely and be prepared if in fact that legislation does come to fruition.

The Commission further discussed the license revocation legislation and provided Mr. Guiles with comments and suggestions on the draft proposal.

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5. Statewide Shooting Range Briefing

Presenter: Marty Macurak, Assistant Director, Information and Education Division

Ms. Macurak introduced Anthony Chavez, the Department's State Shooting Sports Coordinator, and members of Arizona's National Champion Clay Target Team.

Mr. Chavez briefed the Commission on his Youth Shooting Sports Program for the State of Arizona and the Arizona Game and Fish Department. The program has been going full steam ahead and as a result, 500 brand new shooters were introduced into shotgun sports. A Commissioners Cup series was developed and coordinated, and a team was fielded to take to the National competitions in Michigan and Ohio. Mr. Chavez then introduced the team leaders, Captain Wes Moury, who's team uses the Ben Avery Facility, and Captain D.J. Stover and his teammate, Dustin Howard, from the White Mountain Trap and Skeet Club. These teams went to the National competitions in Michigan and returned with trophies that they won on behalf of the State of Arizona and the Arizona Game and Fish Department. Captain Moury and Captain Stover presented their trophies to the Commission. These trophies will be on display at the Arizona Game and Fish Office.

Chairman Gilstrap expressed his gratitude to the team leaders and to Anthony Chavez for their involvement and enthusiasm in the program, and for a job well done.

Ms. Macurak introduced Bob Broscheid, Habitat Branch Chief, to brief the Commission on the Northern Arizona Shooting Range facility.

Using a Power Point presentation, Mr. Broscheid provided the Commission with a brief overview on the status of the Northern Arizona Shooting Range. The Arizona Game and Fish is beginning a new process to locate and develop the facility as there is a high demand for a facility in the region. Logan Simpson Design has been retained to lead the planning and environmental compliance process. This will be a multiple use facility and will accommodate local, regional, and national events, and will provide for law enforcement training.

The location identification process includes extensive public involvement, especially with user groups and other interested parties, and close coordination with the Forest Service, State Land Department and private land owners, in order to development the criteria for excluding locations. The Level I Exclusionary Criteria were: Navajo and Hopi land, Camp Navajo, National Monuments, State and County Parks, inventoried water bodies, private land (unless offered by willing owner), designated critical habitat, centennial forest, steep grades, wilderness areas, inventoried traditional cultural properties (peaks only), inventoried roadless areas, and inventoried special management areas. A map was provided to show a 30-mile radius around Flagstaff indicating possible preliminary locations. Level II Exclusionary Criteria included: Greater than 5 miles from a paved or unpaved road or forest road (AGFD), greater than 5 miles from a power line (AGFD), above 7000' in elevation (user groups), and old-growth management areas (FS). One or two of the exclusionary criteria could possibly be accommodated with more project coordination. In the site selection process, several public meetings will be held. The preliminary site location should be established by the end of September, public meetings are planned for October, user input and site evaluation should be completed by the end of December, and the confirmed site selection is expected by January of 2006.

Currently, the next step is to narrow the set of locations based on Level II criteria, complete a field review of potential locations, evaluate opportunities and constraints at each location, and identify more definitive boundaries at preliminary locations.

The Department requested direction from the Commission on the following: facility concept, i.e. national vs. local, priority of a location south of Flagstaff to draw Phoenix shooters, distance from Flagstaff to address travel time, and direction on use of private and state lands.

Commissioner Golightly complimented Mr. Broscheid on his progress and for the process being used in locating a site for the Northern Arizona Shooting Range; and also for the coordination in working with the Forest Service and getting them on board with the Department in this effort. Further, Commissioner Golightly asked Mr. Broscheid to identify the Ben Avery Shooting Range in regards to facility concept, i.e. national vs. local.

Mr. Broscheid stated that the Ben Avery Shooting Range is interpreted as a local facility that houses national events.

The Commission further discussed location criteria and potential issues with some of the possible location sites.

Commissioner Golightly commented that he preferred the Willow Springs location.

Mr. Broscheid clarified what he understood as Commission direction at this point, which was that the Northern shooting facility would be a local facility that houses national events, that a location south of Flagstaff was a consideration, but not necessarily a main priority, and to extend the current 30-mile radius around Flagstaff to 35 miles.

In regards to private and state lands, private lands are being looked at, but Mr. Broscheid recommended staying away from state lands because it would be too costly.

Director Shroufe commented that the Department looked at 13 sites twice during the Bellemont situation. In conjunction with that, in the mediation process with the Ninth Circuit Court, the plaintiffs looked at available private and state lands and there was nothing there. So we are back to our best option, which is looking on Forest Service lands.

Ms. Macurak continued with the Statewide Shooting Range briefing. The Commission was given an update of Department activities related to shooting range support and development statewide. The update covered activities that have occurred since the June 2005 Commission meeting.

Department Owned Ranges:

Ben Avery Shooting Facility (BASF), Phoenix – The BASF office manager began work in July and interviewing has been conducted for two Range Coordinator positions. Department employees are filling the gaps in Line Safety Officer (LSO) coverage. Another Line Safety Officer Training was conducted in July, and the Assistant Director is working with staff and with the Arizona State Rifle and Pistol Association to completely revamp the facility's LSO program.

A project list for office equipment and office procedures has been developed, and work will begin in August to purchase computers, upgrade the telephone and customer information systems, make database improvements and link invoicing to the Department's Finance and Accounting Section. These plans have been shared with the Arizona State Rifle and Pistol Association.

In the new fiscal year, the Department plans to spend \$100,000 on paving for the facility, and will continue electrical repairs and improvements both at the main range and at the Clay Target Center.

The Commission has asked Department staff to provide information related to operating costs for the main range and Clay Target Center as the Commission considers whether to seek a vendor to operate either the Clay Target Center, the main range, or both. This information was presented in agenda item number 7.

Sierra Vista Shooting Range – The Department is working with the State Land Department to acquire a perpetual right-of-way into the shooting range. In June the Department received concurrence from the Bureau of Land Management for a new lease agreement with the Gun Club, and forwarded the agreement to the club for signature. The Bureau accepted our request for patent, has received our updated Plan of Development, and informs us that the paperwork is moving forward through their system. A new restroom that meets the Americans with Disabilities Act requirements has now been installed at the range.

Three Points Shooting Range, Tucson - The new agreement with the Federal Aviation Administration for maintenance of aircraft equipment at the range, which has already been approved by the Commission, is on its way to the FAA for signature.

Usery Mountain Shooting Range, Mesa - The Information and Education Assistant Director met with the Range Manager and Executive Vice President of the Rio Salado Sportsman's Club in July to discuss the septic system and noise abatement. The club is seeking a contractor to draw up plans for a new septic system. The Department will assist the club throughout the process and will ensure that the new system meets specifications.

Shooting Programs and Other Activities:

Pima County Shooting Ranges - In July, Department staff met with officials from the Pima County Department of Natural Resources to tour shooting ranges and discuss development needs. Pima County is requesting Commission assistance with two improvement projects: an archery course at the Overton Fine Arts Center estimated to cost \$12,000 and improvements at the Tucson Mountain Park shooting range involving grading and berm work that roughly estimates at \$150,000.

Scholastic Clay Target Program (SCTP) – The State of Arizona and the Arizona Game and Fish Department's Scholastic Clay Target champions attended the National SCTP Skeet and Sporting Clays Event in Detroit in July. The rookies and juniors teams won national titles in skeet, and the seniors team is ranked fifth in the nation. A major instructor training for the SCTP will be held in October in Phoenix, at BASF and the Red Mountain Trap and Skeet Club. Also in October, the 440 kids who participated last year will re-enroll and we anticipate being able to

grow by least 25% the number of participants in the coming school year, if the budget permits. Areas of expansion would include: Wickenburg, Prescott, Casa Grande, Yuma, Sierra Vista, Globe, Kingman and Flagstaff.

Department staff requested Commission direction on two items; funding and the formation of a 501(c)3 foundation. The program coordinator estimates costs of \$300,000 for the coming year, which would be a 100% increase over the budget according to the original three-year project plan; additionally, it is important for the Commission to consider mechanisms to provide long-term financial and program support for the program.

Motion: Hernbrode moved and McLean seconded THAT THE COMMISSION INCREASE THE BUDGET FROM \$190,000 TO \$300,000, AVAILABLE IMMEDIATELY FOR THE SCHOLASTIC CLAY TARTET PROGRAM.

Commissioner Golightly requested that the cost for this program be offset by any federal grants or other funding sources that come available, and that any funds from those would be placed back into the budget to make up for the increase.

Motion Amended: Hernbrode moved and McLean seconded THAT THE COMMISSION VOTE TO INCREASE THE BUDGET FROM \$190,000 TO \$300,000, AVAILABLE IMMEDIATELY FOR THE SCHOLASTIC CLAY TARGET PROGRAM; AND FUNDS FROM FEDERAL GRANTS OR OTHER FUNDING SOURCES WILL BE SOUGHT OUT, INCLUDING AN ACCOUNT SET UP FOR DONATIONS, AND THOSE FUNDS WILL BE PLACED BACK INTO THE BUDGET IN ORDER TO OFFSET THE INCREASE.

Vote: Unanimous
Melton absent

(Briefing continued)

White Mountain Trap and Skeet Club - Tom Johnson of the White Mountain Trap and Skeet Club is requesting assistance from the Commission to improve roads leading into the club.

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Meeting recessed for a break at 9:56 a.m.

Meeting reconvened at 10:13 a.m.

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6. Statewide Shooting Range Grants

Presenter: Marty Macurak, Assistant Director, Information and Education Division

At the June meeting, the Commission requested that staff report on the status of the Statewide Shooting Range Grants Program. The following chart shows the status of the open grant accounts.

Grant year	Grants budget	Amount Spent	Committed / not disbursed	Monies available	Status
FY 2002 07503	\$100,000	\$ 73,540	0	\$ 26,460	07503-01 City of Safford Dry Lake Range. Completed. 07503-02 Pima Pistol Club wire and signs. Completed.
FY 2003 07506	100,000	86,217	0	13,783	07506-01 Rio Salado Sportsman's Club- backstop. Completed. 07506-02 Rio Salado Sportsman's Club berm. Completed. 07506-03 Pima County berms. Completed.
FY 2004 07509	100,000	79,262	9,750	10,988	07509-01 Rio Salado Sportsman's Club Rangemaster office. \$9,750 committed, extension granted. Est. completion date Sept. 2005. 07509-02 Tucson Trap and Skeet Club 15 machines. \$19,262 awarded & paid. Completed. 07509-03 Maricopa County Buckeye Hills. \$60,000 awarded & paid, courtesy ext. granted for completion in June 2006.
FY 2005 07512	100,000	2,080	<u>87,000</u> 27,000 5,000 50,000 5,000	10,920	07512-01 Tucson Rifle Club roof. Completed. 07512-02 Tucson Rifle Club-berms. \$27,000.00 awarded. Project near completion. 07512-03 Mohave Sportsman Club. \$5000 awarded. Project planned to begin 7/31/2005 07512-04 City of Casa Grande (Elzy Pearson). \$50,000. Est. completion date July 2006. 07512-05 Rio Salado septic system replacement. \$5,000 approved at April 2005 commission mtg. Est. completion July 2006.
FY 2006 07514	100,000	0	92,750	7,250	Award letters mailed in July. 07514-01 Pima County Southeast Regional Park. \$50,000 for classroom facility. 07514-02 Rio Salado Sportsman's Club. \$8,250 to add 4 feet to pole crib berm. 07514-03 Town of Gila Bend. \$34,500 shade covers, security fencing and gates.
Unobligated funds 10% rainy day retention			69,401 (10,000)		
Available funds			59,401		

Unfunded FY06 Requests:

Pima County Backstop/Berm Project. The county requests \$50,000 to purchase materials and build range backstop and side berms. This range would be used for safety education classes and proficiency training.

Rio Salado Sportsman's Club Pistol Range. The club seeks \$20,527 for the Utery Mountain Shooting Range to build two, ten-position pistol ranges; they seek funding for materials and construction. The ranges would be used for police agencies and concealed carry classes. Staff invited the club to submit this request for FY2007, preferring instead to fund the club's second grant request for berm improvements.

Tucson Trap & Skeet Club. The club requests \$9,225 to build an International Skeet Range and buy two new international skeet machines. Although this request has merit, limited funding prompts staff to give priority this year to safety and education-related requests from other ranges.

Mohave Sportsman Club. The club requests \$10,925 for the Seven Hill Range in order to upgrade lighting on their trap and skeet ranges. They would use the funds to add eight new poles and upgrade electrical panels. Higher priority has been given to safety and education-related improvements at other ranges.

Ms. Macurak stated that in addition to these, there were some other informal request from other facilities and organizations around the State.

Commissioner Hernbrode stated that he is not comfortable spending funds on these projects without the proper paperwork and detailed information about the project.

Commissioner McLean commented that before spending money on projects, he would like to know more about the projects.

Ms. Macurak stated that in discussions with the Director and with our Attorneys, they suggested an appropriate process for spending these funds would be to go through our formal granting process, so one approach might be to re-publicize around the State that these monies are available.

Motion: Hernbrode moved and Golightly seconded THAT THE COMMISSION APPROVE THE FUNDING FOR THE PIMA COUNTY BACKSTOP/BERM PROJECT FOR \$50,000, THE TUCSON TRAP AND SKEET CLUB FOR \$9,225, AND THE MOHAVE SPORTSMAN CLUB FOR \$10,925 FOR NOW AND THAT OTHER PROPOSALS COME BACK FORMALLY FOR COMMITMENT OF THESE FUNDS.

Commissioner Hernbrode stated that the monies that the Commission approves should be at some level tied to hunting and fishing opportunities and that the Rio Salado Sportsmen Club Pistol Range request did not support that objective.

Commissioner McLean stated that the Game and Fish Department has a responsibility for funding and maintaining shooting ranges, and that would be for shooters as well as for hunters.

Commissioner Golightly moved to amend the motion to include the Rio Salado Sportsman's Club Pistol Range request of \$20,527, but then withdrew the motion because it was not accepted by Commissioner Hernbrode.

Vote: Aye – Hernbrode
Nay – Gilstrap, Golightly, McLean
1 Aye, 3 Nay, Melton absent
Motion failed

Motion: Golightly moved and McLean seconded THAT THE COMMISSION VOTE TO APPROVE THE FOUR PROJECTS THAT COME UNDER THE UNFUNDED FY06 REQUEST AS IDENTIFIED.

Commissioner Hernbrode stated that he is going to vote aye, but maintains his position.

Vote: Unanimous
Melton absent

Public Comment

Tom Johnson, Secretary for the White Mountain Trap and Skeet Club, addressed the Commission along with the Club's Treasurer, Doc Horine. Mr. Johnson first expressed appreciation to the Commission for the Scholastic Clay Target Program. They have about 70 youths that use their facility in the White Mountain area. They are the only facility within about 150-mile radius, so they service shooters in a wide area. As all small clubs, they have some challenges to overcome. They have no paid employees and all maintenance and improvements have come from volunteers. The purpose for addressing the Commission at this time was to request assistance in road improvements on the last five miles of un-maintained road that leads up to the shooting facility. There are a lot of ruts, holes and rocks, especially after a rain or snowmelt, making it rough and hazardous to travel on. The number one reason many shooters don't use the facility is the road condition.

Ms. Macurak informed the Commission that Development Branch has evaluated the situation and estimate that it would take about \$25,000-50,000, depending on whether it's just graded or something more is done. A complicating factor is that it is a private road; there are approximately 50 homeowners along that road and there is some lack of clarity related to easements.

Commissioner McLean stated that the Commission needed to know the legal and maintenance status on the right of way, and public access needed to be firmly established before doing anything.

Commissioner Golightly directed Ms. Macurak to work with the White Mountain Trap and Skeet Club to help them draft a fund request for the next building cycle.

Ms. Macurak stated that there is enough time to work out the access issues as well as apply for the grant by the next grant cycle.

Another matter on this agenda item is the \$220,000 from which the Commission previously dedicated \$90,000 to be spent, leaving \$130,000. Ms. Macurak asked the Commission if they would like to make the \$130,000 available for this grant cycle, but suggested setting \$30,000 of it aside.

Motion: McLean moved and Hernbrode seconded THAT THE COMMISSION VOTE TO TAKE \$100,000 OF THE \$130,000 AND ADD THAT TO THE REGULAR \$100,000 GRANT CYCLE THAT ENDS IN NOVEMBER FOR A TOTAL FUNDS AVAILABLE \$200,000.

Chairman Gilstrap added for clarification that \$30,000 would be set aside for contingencies.

Vote: Unanimous
Melton absent

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7. Briefing on the Ben Avery Clay Target Center and the Ben Avery Shooting Range

Presenter: Marty Macurak, Assistant Director, Information and Education Division

The Department's contract with the vendor now operating the Ben Avery Clay Target Center will expire on Sept. 17, 2006. At the June meeting, the Commission discussed three possible scenarios related to operation of the Ben Avery Shooting Facility and its Clay Target Center: 1) issue a Request for Proposals for vendor operation of the Clay Target Center, 2) issue an RFP for vendor operation of the Clay Target Center and the main range, and 3) direct the Department to operate the Clay Target Center (in addition to operating the main range as it currently does).

The Commission was presented with the following information prior to this meeting: current operating costs and gate receipts at the main range; projected capital improvement and operating costs for the Clay Target Center; and draft language for an RFP.

Commissioner McLean asked about the option that would allow one vendor to, for example, operate the Rifle and Pistol Range and yet another to operate another section.

Ms. Macurak stated that the RFP would be worded in such a way to invite offerers to break their proposals into separate elements, so that the Commission could have that option.

The Commission and Ms. Macurak further discussed the language and the content in the draft RFP. Some of the issues included more Commission control over private vendors in order to maintain low prices on all range fees.

Public Comment

Dave Siebert, Councilman for the City of Phoenix, District I Representative, addressed the Commission with a proposal from the City of Phoenix to enter into an Inter-governmental Agreement (IGA) to become a partner in running the Ben Avery Shooting Facility. The City of Phoenix offered allocating money in the amount of 4 million dollars in the next five years through a bond program, contingent on it making it through the Bond Committee and approval by the voters, and also, the only way they could expend that money was if they had a long-term (25 years) lease for the management of the entire range. All monies that would be profit for the private vendor would instead be put back into the Ben Avery facility; approximately \$750,000 a year. The idea is to maintain the best shooting facility in the country, improve it, keep prices low, and make it available for as many people as possible.

Commissioner Hernbrode commented that this should be discussed in Phoenix instead of Flagstaff due to the proximity to Ben Avery and the people who this would impact.

Commissioner McLean clarified that in this IGA, the Commission would substantially divest itself of oversight management of the range during the period of the lease, and further commented that the Legislature made it known last year that they expect the Arizona Game and Fish Commission to maintain substantial involvement in the oversight of the Ben Avery facility.

Commissioner Golightly stated that it has been his experience in partnerships between City, County, and State, that they have conflicting missions; their missions are not the same. There is a power and control issue between the entities, and he does not see the Commission and the City of Phoenix becoming involved in a partnership in regards to the Ben Avery.

Chairman Gilstrap concurred and added that he had concerns about the City of Phoenix's finances, considering that they are currently asking the State for funding for certain projects. Additionally, the Commission has the same bonding authority as the City of Phoenix and could do the same as what the City of Phoenix is proposing, if they so choose.

Mr. Siebert assured the Commission that the bond monies and the Ben Avery profits would not be used for any other purpose than to go back into the Ben Avery facility.

Commissioner Golightly commented that the City of Phoenix and the Commission have a common goal of protecting and preserving the Ben Avery, and that he did not see that changing even if the Commission didn't enter into an agreement.

Mr. Siebert agreed stating that the Ben Avery facility was considered as a mountain preserve.

The Commission and Mr. Siebert further shared comments and opinions on issues regarding an IGA with the City of Phoenix.

Motion: McLean moved and Hernbrode seconded THAT THE COMMISSION DIRECT THE DEPARTMENT TO MOVE FORWARD DILIGENTLY AND EXPEDIOUSLY WITH A TWO PRONGED APPROACH, DRAFTING AND BEING PREPARED TO PRESENT TO THE COMMISSION BY NO LATER THAN THE OCTOBER MEETING, AN RFP WHICH WOULD PROVIDE ALTERNATIVELY FOR VENDOR OPERATION OF THE CLAY TARGET CENTER OR THE CENTER FIRE RANGE OR BOTH, MAKING AVAILABLE ALL ALTERNATIVES TO POTENTIAL CONTRACTORS; AND AT THE SAME TIME MOVING FORWARD WITH EARNEST DISCUSSIONS WITH THE CITY OF PHOENIX TO DETERMINE IF THERE IS A VIABLE OPPORTUNITY TO MOVE FORWARD WITH AN IGA THAT DOES NOT DIVEST THE COMMISSION WITH SUBSTANTIAL MANAGERIAL OVERSIGHT OF THE BEN AVERY SHOOTING FACILITY.

Chairman Gilstrap noted that one ingredient was missing and that was regarding the Department running the Ben Avery Facility.

Motion Amended: McLean moved and Hernbrode seconded THAT THE COMMISSION DIRECT THE DEPARTMENT TO MOVE FORWARD DILIGENTLY AND EXPEDIOUSLY WITH A TWO PRONGED APPROACH, DRAFTING AND BEING PREPARED TO PRESENT TO THE COMMISSION BY NO LATER THAN THE OCTOBER MEETING, AN RFP WHICH WOULD PROVIDE ALTERNATIVELY FOR VENDOR (ALL VENDORS, INCLUDING GOVERNMENT ENTITIES) OPERATION OF THE CLAY TARGET CENTER

OR THE CENTER FIRE RANGE OR BOTH, MAKING AVAILABLE ALL ALTERNATIVES TO POTENTIAL CONTRACTORS; AND AT THE SAME TIME MOVING FORWARD WITH EARNEST DISCUSSIONS WITH THE CITY OF PHOENIX TO DETERMINE IF THERE IS A VIABLE OPPORTUNITY TO MOVE FORWARD WITH AN IGA THAT DOES NOT DIVEST THE COMMISSION WITH SUBSTANTIAL MANAGERIAL OVERSIGHT OF THE BEN AVERY SHOOTING FACILITY; AND TO INCLUDE PARTIAL OR COMPLETE OPERATION BY THE DEPARTMENT.

Commissioner Golightly stated that he believed the Department has already done their work on what it's going to cost to run the range, and asked Ms. Macurak what else was needed.

Ms. Macurak stated that the Commission has all the financial information and the only thing missing would be an assessment of what the process might be in terms of asking the Legislature for additional positions and how those positions would be paid; and also what the possibilities are related to enterprise activity and what kind of permissions would be needed from the Legislature.

Chairman Gilstrap stated that they also needed a business plan.

Commissioner McLean stated that the financial spreadsheet provided by the Department shows a \$665,000 deficit in the first year and he would like to know where those funds are going to come from before he goes down that road.

Vote: Aye – Golightly, McLean, Hernbrode
Abstain – Gilstrap
Melton absent

Commissioner Golightly explained that he is open minded enough to look at any and all presentations, including if it comes from the City of Phoenix, and therefore voted Aye.

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8. Request by Mr. Ernest T. Carrillo for a Hearing Associated with the Lack of Hunter Access in Unit 10 During the Fall 2004 Elk Hunts

Presenter: Bob Posey, Kingman Regional Supervisor

Mr. Ernest T. Carrillo requested a hearing for issuance of an elk tag for unit 10 due to the circumstances that occurred during his elk hunt in unit 10, Hunt No. 3134, September 17-30, 2004. In general, Mr. Carrillo stated that his request is warranted because of lack of access and poor weather conditions, which contributed to his failure to harvest an elk during this hunt.

The Department reviewed the information provided by Mr. Carrillo and the circumstances surrounding this hunt, and does not believe that any actions by the Department were a significant contributing factor to Mr. Carrillo's lack of success during this hunt. The incidents surrounding the closure of access to portions of the Big Boquillas Ranch and inclement weather described by Mr. Carrillo did occur, however there was ample opportunity for Mr. Carrillo to hunt in many other areas of unit 10 including portions of the Big Boquillas Ranch.

Commissioner Golightly clarified that Mr. Carrillo wrote a letter regarding his request to the Director who replied back by letter denying that request.

Mr. Posey stated that was correct. Subsequently there was further communication with Mr. Carrillo in which the Department told him there was nothing more they could do, but that he could petition the Commission for a hearing, and the Commission could vote to grant or deny that hearing.

Mr. Carrillo addressed the Commission and stated that he was locked out from his hunting spot on the Big Boquillas Ranch. Mr. Carrillo has a plastic knee and this hunting spot does not require a lot of walking. He was also pulling a trailer and could not get up to another recommended hunting spot. Also, there were three other gates that were locked. He was told by the Navajo Tribe that the Game and Fish locked the gates and he was told by Game and Fish that the Navajo Tribe locked the gates. He didn't know which one to go to. If they are going to lock the gates, they should tell the hunters so they don't put in for those areas.

Chairman Gilstrap asked Mr. Posey if the Game and Fish Department locked any gates in Unit 10 on the Boquillas, to which Mr. Posey replied no, those gates were closed by the Diamond A Ranch or the Cholla Cattle Company, who sublease from the Navajo Nation, and the Department was actively involved at that time in negotiating with the Navajo Tribe to reopened those gates.

Motion: Golightly moved and McLean seconded THAT THE COMMISSION VOTE TO DENY MR. CARILLO'S REQUEST FOR A HEARING ON THIS MATTER.

Vote: Unanimous

4 Aye, Melton absent

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Meeting recessed for lunch at 12:00 p.m.

Meeting reconvened at 1:00 p.m.

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13. Executive Session

a. Legal Counsel. The Commission may vote to meet in Executive Session in accordance with A.R.S. § 38-431.03 (A)(3) and (4) for the purpose of discussing and consulting with legal counsel in order to consider its position and to instruct legal counsel regarding the Commission's position on *Montoya v. Manning*, CIV98-0239 PHX RCB; *Re General Stream Adjudication for the Little Colorado River and Gila River*; *Mark Boge v. Arizona Game & Fish Commission & Shroufe*, CIV2000-020754; *Bar D Cattle Co. v. Shroufe*, CIV2002-0872; *Phelps Dodge Corp. v. Arizona Dept. of Water Resources*, LC2003-000243-001DT; *Arizona Zoological Society, et. al. v. BLM, IBLA appeal no. 2002-412*; *Audubon Society of Portland v. USFWS*, CV04-670-KI; and *State of Arizona v. George H. Johnson*, CV2005-002692.

b. Legal Counsel Regarding Recent Federal Legislation Renouncing Interest in Regulating Hunting and Fishing Permits Under the Commerce Clause. The Commission may vote to meet in Executive Session in accordance with A.R.S. sections 38-431.03(A)(3) and (4) for the purpose

of discussing and consulting with legal counsel regarding the Commission's position on regulating nonresident hunting and fishing permits in light of recent federal legislation renouncing interest in regulating hunting and fishing permits under the Commerce Clause.

c. Personnel Matters. The Commission may vote to go into Executive Session to discuss personnel matters, including the Director's goals and objectives pursuant to A.R.S. § 38-431.01 (A) (1). The Commission may decide this matter in the public meeting or defer a decision to a later date.

Motion: McLean moved and Hernbrode seconded THAT THE COMMISSION GO INTO EXECUTIVE SESSION.

Vote: Unanimous
Melton absent

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14. Hearings on License Revocations for Violation of Game and Fish Codes and Civil Assessments for the Illegal Taking and/or Possession of Wildlife

Presenter: Ronald L. Day, Law Enforcement Branch Chief

Record of these proceedings is maintained in a separate minutes book in the Director's Office.

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12. Call to the Public

Pete Cimellaro, Board Member of the Arizona Deer Association and the Arizona Elk Society addressed the Commission in regards to Saturday's agenda item number 4, Options for regulating nonresident big game hunting permits in light of recent federal legislation renouncing interest in regulating hunting and fishing permits under the commerce clause. Both organizations are very much in favor of reinstituting the 10% cap with the inclusion of the changes that have been discussed, that pronghorn be added, that it also include antlered deer, bull elk, sheep and bison. Also, it's extremely important that the cap be applied on a unit by unit basis. They are in favor of protecting the low permit numbered units, making sure that if there is only one permit, that a resident have the ability to draw that permit, and there must be at least two permits in any area for a nonresident to draw.

Don Martin, Government Liaison with the Mohave Sportsman Club stated that he would like to see the Department propose rules to prohibit people with revoked licenses from being in the field, including guiding and assisting. People get their license revoked and they go back out and take part in activities again, even though they are revoked. They continue to operate illegally and the resources need to be protected from these people. Also, when people are revoked for using aircraft to harass big game animals, that rule should be revisited and that kind of violation needs to be revocable. Another issue was in regards to the Conservation Bonus Point. His organization met with other groups that spoke out against it, but they are now in support of that

concept. They would like to see it brought back to the table with some changes to the language to better fit everyone's idea of what that Conservation Bonus Point should be.

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11. Briefing on management of the House Rock Bison Herd

Presenter: Ron Sieg, Region II Supervisor

At the December 2004 meeting, the Commission directed the Department to develop approaches to reduce the House Rock bison herd by one-half during 2005. Using a slide presentation, Mr. Sieg provided the Commission with an update on Department actions since the last update at the March 2005 meeting.

The outcome of the Spring 2005 general seasons authorized five permits, and two bulls were harvested. One of the five hunters did not hunt, so there was a 50% success rate. Two Special tag hunters harvested bulls, one in June and one in August; both were six year old bulls. In early March, four GPS collars were put on cow bison. All collars provided information through May 15, and after that, three of the collars failed, apparently due to external damage to the antenna, leaving only one functioning GPS collar. The VHF portion is still working, so the animals could be located as needed, but we cannot confirm future migration or use of the Park.

Using video in the presentation, Mr. Sieg showed the Commission the migration pattern of the bison. The first was all animal movements since the collars were put in place. They stayed on the Park through April and early May. In mid-May they started moving down South Canyon towards the House Rock Wildlife Area. They all ended up by the end of May, at the House Rock valley, where they remain to this point. In an effort to get a better estimate of the population and the use of Grand Canyon National Park, helicopter surveys were conducted between June 30 and July 3 of all the North Rim portion of the Grand Canyon National Park, all of House Rock valley and some portions of the Kaibab National Forest. At no point during the survey were any bison seen on the Grand Canyon National Park. It's possible that small groups of bison could have been missed due to poor visibility in some areas, but it's fairly certain that no large groups were missed. Park personnel have been directed to report any bison that they see and there has been significant fire fighting activity on the Park and no bison were observed, either on the ground or from helicopters. A ground survey was also done to classify the animals. The current population estimate for this herd is 186 total bison, with 41 adult bulls, 70 adult cows, 21 yearling bulls, 11 yearling cows, and 43 young 2005 calves.

Starting August 5, with plans to continue for eight weeks, we plan to have five hunters per hunt, three day population management hunts. The first two hunts for yearlings, the next two for bull only, and the final for any bison. The first hunt was completed last Sunday and three of five hunters harvested animals. These hunts are being offered at the normal tag price and the prices will only be changed if we are unable to sell the needed tags. We plan to continue these hunts until bison are no longer available on the Wildlife Area. Based on the first hunt, no bison moved off the area, and as of yesterday, all bison were present. We've asked the hunters to choose their preferred weapon, assist us in the hunt by being accompanied by a Department employee who will help in locating the bison and selecting the animal to be harvested, attend a pre-hunt coordination and orientation meeting, and hunt in the order selected and administered by the

Department to avoid chasing off the herd. Additionally, in April, the Commission approved all Kaibab hunters (2,390) in 12A and 12B, being offered the opportunity to buy bison or elk tags over the counter and on August 1, a mailing went out to all of those hunters offering them this opportunity.

We continue to meet with the Grand Canyon National Park and the Kaibab National Forest as a member of the bison team. The most recent meeting was July 28. At this point, the meetings are primarily to share information on bison movement, planned hunts, and planned Park activities. No new issues have surfaced.

Mr. Sieg attended a bison specialist meeting in New Mexico in May and the goal was to see if that group could be engaged to consider the House Rock herd important to the conservation of bison in North America. Due to a desire to use only pure bison in the conservation plan, we were not successful in that goal.

The Park has plans to have Mr. Lammers continue with his proposal to capture bison in corrals. They planned to try it this spring, but the road conditions were too wet to get access before the bison moved to the House Rock Wildlife Area. In an effort to test the corral capture, Mr. Lammers went to the House Rock Wildlife Area on July 29 and set up corral panels around a salt block to see if the bison would continue to use the salt and they did. They were undeterred by seeing the corral panels in place. Mr. Lammers plans to set up a corral system around water on the Park this fall and try to capture bison. Once the bison are captured, they become the Department's bison and so we have three options. One is to haul the bison to the House Rock Wildlife Area corrals and release a few at a time into an adjacent pasture and have population management hunts. The other options would be to sell the bison for either slaughter or breeding. The National Bison Association has a web page that offers classifieds for bison for sale and we could use this method to advertise our sale. Also, Mr. Lammers still intends to try his mosquito technique, to use horses and annoy bison on the side where we don't want them to go and move them towards the side that we do want them to go.

Commissioner Hernbrode asked what has been done to test the genetics of the herd.

Mr. Sieg stated that a test was done last fall. Samples were collected from all the harvested animals from last year, and cattle genes were found resident in the samples. Both Raymond Ranch and House Rock Wildlife Areas were tested and only one pure bison was found.

Chairman Gilstrap commented that when we started this process of figuring out what to do to remove the herd, we were estimating a conservative number of 250 bison. Now we find there are 186 and of those, 43 are 2005 calves produced from about 70 cows. That's about a 60% reproduction rate. It seems that we should have more than 186. Further, we took actions to harvest almost twice as many bison as we are now confident that we have.

Mr. Sieg stated that the Department missed classification surveys for at least two years, so the calf crop confidence was fairly low. The only suggestion at this point in time, to address the numbers, is that mortality has never been factored into this herd. They spend a lot of time in remote areas of the Grand Canyon National Park. They may have died and we didn't find them, although that is only a slight possibility. Also, there is a fairly large lion population on the

Kaibab and the Park, and lions regularly kill bull elk. The main reason we did flight surveys was to reset the number we had, so decisions from this point forward should be based on 186.

Chairman Gilstrap stated that he is very concerned about the steps already taken and we should reevaluate what steps we are going to take in the future.

Mr. Sieg stated that we have a longstanding agreement with the Forest Service to hold this herd to around 100 animals, so we are approaching twice as many as we should have. If the population hunts that we have planned are extremely successful, we would kill a maximum of 37. If there is concern, we could pull back from the population management hunts, but there is nothing we can do about the 2,390 hunters who may purchase a tag. The odds for those hunters may not be that good unless they've gone out and scouted to find where the bison are, the odds of just coming across one on a hunt may be fairly small. But we could have a significant harvest; we won't know until after this year.

Commissioner Hernbrode asked about the habitat impact on the House Rock Wildlife Area in regards to the size of the herd.

Mr. Sieg replied that the herd could be doubled or tripled without habitat issues.

Motion: Hernbrode moved THAT THE COMMISSION MODIFY THE DIRECTION GIVEN TO THE DEPARTMENT TO REDUCE THE POPULATION TO 125 ANIMALS, AND THAT ASSUMING THAT 186 IS CORRECT, THAT DIRECTION BE GIVEN TO REMOVE 61 ANIMALS FROM THE POPULATION.

Motion died for lack of second.

After further discussion, Chairman Gilstrap suggested that since the facts have changed, the Department should proceed with caution.

Public Comment

Don Martin, representing himself, suggested that nonresidents be charged more for bison tags.

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9. Request to the Legislature for a Supplemental Appropriation from the Watercraft Licensing Fund to Assist the Colorado Multi-species Conservation Program and to Address Other Operational Issues.

Presenter: Steve K. Ferrell, Deputy Director

The Department was requested by Legislature to assist with funding the Colorado Multi-species Conservation Program during last year's legislative session. Additionally, the Department has identified several other operational issues that will require supplemental funding to implement during Fiscal Years 2006 and 2007. The Department will be required to submit a request to the Legislature for a supplemental appropriation to the existing 2006 and 2007 Fiscal Year approved budgets in order to meet these additional needs.

Motion: McLean moved and Golightly seconded THAT THE COMMISSION VOTE TO APPROVE A REQUEST TO THE LEGISLATURE FOR AUTHORIZATION OF AN OFF-YEAR BUDGET SUPPLEMENTAL APPROPRIATION OF \$800,000 FROM THE WATERCRAFT LICENSING FUND TO ASSIST THE COLORADO MULTI-SPECIES CONSERVATION PROGRAM AND TO ADDRESS OTHER OPERATIONAL ISSUES.

Vote: Unanimous
Melton absent

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10. Briefing on the Employee Compensation Proposal to be Submitted to the 2006 Arizona State Legislature.

Presenter: Steve Ferrell, Deputy Director

The Commission was provided with a briefing on the employee compensation proposal to be submitted to the 2006 Arizona State Legislature as proposed legislation.

Commissioner Hernbrode abstained from discussion on this item due to his son-in-law being an employee of the Arizona Game and Fish Department.

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Meeting recessed at 5:38 p.m.

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Saturday, August 13, 2005 – 8:00 a.m.

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Chairman Gilstrap called the meeting to order at 8:00 a.m. The Commissioners introduced themselves and Chairman Gilstrap introduced the Director, and the Director's staff. Commissioner Melton was not present. This meeting followed an agenda revision dated August 8, 2005.

Awards and Commissioning of Officers – None at this time.

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1. Hunt Permit-tag Application Schedule for Spring 2006 Hunts

Presenter: Richard Rico, Assistant Director, Special Services Division

Mr. Rico provided the Commission with a brief presentation on the hunt permit-tag application schedule for the spring 2006 hunting seasons. The application schedule was provided to the Commission prior to this meeting and identified proposed acceptance dates and deadline dates

for all hunts associated with the draw process. In addition, the proposed dates for when hunt permit-tags and refund warrants will be mailed were also identified, along with information relating to the first-come/first-serve process for any permits that may still be available.

The Department normally brings the hunt permit-tag application to the Commission for their approval and so they can see how the Department will be handling the various application time frames. For the spring draw, applications will begin being accepted as soon as the hunt information is available on the website or from the license dealers, and it is anticipated that that will be fairly close to September 1. The correction period deadline is September 23; any application received prior to that deadline that has errors, three attempts will be made within 24 hours to notify the applicant by telephone. The deadline date will be October 11, which is the traditional second Tuesday in October. Hunt permit-tags will be mailed by November 18, with refunds going out by December 2. If there are any tags left for first-come, first-serve, those will be accepted beginning on November 21.

The Department has been working on an online application per Commission direction to try to bring that back before 2006. It's not sure yet if that application will be ready for this spring draw; that decision will be made within the next 2-3 weeks. A computer test application will be received this week for evaluation.

Commissioner McLean asked how the public would be noticed if the online application was up and running in time for this spring draw.

Mr. Rico stated that the Department would have some media and press releases, and it would be prominently posted on the Department's website.

Public Comment

Jon Fugate, Chairman of Legislative Affairs with the Yuma Valley Rod and Gun Club (YVRGC), stated that, in regards to the online application for the spring hunts and based on research of Commission meeting minutes, the Commission gave direction that the paper draw would be for calendar year 2005. The 2006 spring hunt application process is in calendar year 2005, so they are confused about the opportunity for the internet process to be available for the spring hunts. Mr. Fugate asked when the Commission gave direction for the Department to use the online application process for the spring hunt, and further stated that his organization does not like the online process because in that process all fees are not collected up front.

Commissioner McLean stated that the Commission has an obligation to provide the widest opportunity to the citizens of this state, and not just to those who preferred the paper application and who could afford to pay up front. At the Safford meeting the Commission reluctantly directed that the Department go to paper applications for the fall draw 2005, but at that very same time the Commission directed the Department to use it's best efforts and with all deliberate speed to bring back a new vendor so that we could return to offering the highest and best quality services that were available using the technology of the Internet.

Chairman Gilstrap stated that Mr. Fugate may not be incorrect in what he read in his research of the minutes or in his presumptions, but the Commission was at that time primarily dealing with

the fall draw and the date of 2005 and 2006 was not the linchpin in that process. The linchpin was in getting the ability to go back to an online draw.

Mr. Fugate stated that YVRGC was not opposed to the Internet and that process. What they want is all fees paid up front and that is not going to happen using the Internet.

Commissioner McLean stated that banking people were interviewed and extensive inquiries were made into the online banking process and requiring fees upfront, and it was concluded that there were some potentially severe repercussions to that process. The credit card companies will not permit the Department to charge an upfront tag fee because a product is not provided at that time. If their policies changed, Commissioner McLean would reconsider it, but there are also some distinctive advantages to not charging all those fees upfront, and one of those is that all citizens, whether they can afford to pay for a tag up front or not, can apply after they purchase a license.

Mr. Fugate acknowledged awareness of the Department's investigation into charging upfront on the Internet and why it can't be done. However, he still wanted to know when the Commission changed their direction to the Department.

Commissioner Golightly stated that Mr. Fugate would see that Commission direction change in a few minutes.

Motion: Golightly moved and McLean seconded THAT THE COMMISSION VOTE TO APPROVE THE HUNT PERMIT-TAG APPLICATION SCHEDULE FOR THE SPRING 2006 HUNTS AND SIEZE ANY OPPORTUNITY TO USE THE ONLINE APPLICATION FOR THE SPRING 2006 HUNTS IF THE DEPARTMENT FEELS THAT THE PROGRAMMING HAS BEEN ADEQUATELY TESTED TO ENSURE THAT IT WILL WORK PROPERLY.

Commissioner McLean stated that he thought this was resolved at the March meeting where he and Mr. Rico reported back to the Commission on the status of vendor applications. There were apparently questions as to whether or not that direction was clearly given, which now Commissioner Golightly's motion should clarify any question that might still be present.

Vote: Unanimous
Melton absent

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2. Consideration of Proposed Commission Orders 5, 6, 8, and 9, for Spring 2006 Hunting Seasons.

Presenter: Leonard Ordway, Game Branch Chief

The Department requested the Commission to consider and vote to approve Commission Orders 5, 6, 8, and 9 (spring turkey, javelina, spring buffalo, and spring bear) establishing seasons and season dates, bag and possession limits, permit numbers, and open areas. A detailed description of all proposals were available for public review at all Department offices and were provided to the Commission prior to this meeting.

Using a Power Point presentation, Brian Wakeling, Big Game Management Supervisor, briefed the Commission on each of the Commission Orders 5, 6, 8, and 9, and how the recommendations were determined in regards to data collected up to this point.

Commission Order 5 – Spring Turkey

The 2005 general spring turkey season produced a harvest of 1,179 birds and a statewide hunter success rate of 27%. This is the largest spring harvest, and hunters enjoyed the highest spring turkey success rate since 1965 when 79 hunters had a 38% success rate, taking 30 turkeys. This is the tenth year that Wildlife Managers have used the turkey management scorecards to calculate permit levels and determine whether a unit should be recommended for a stratified season. During this period, spring turkey season harvest has increased, with some fluctuations, from 631 in 1996 to the current high. Authorized permits reached a recent high of 5,471 in 2002. The recommendation for spring 2006 is 5,576 permits, the highest number of recommended permits to date.

The 2006 spring turkey season is recommended to run April 28 to May 25. Stratified seasons are implemented in units that can support higher harvests, but where hunter density may be higher than desired. In 2006, the first stratified hunt would have the dates of April 28 to May 4 and May 12 to May 25 and the second stratified hunt would have the dates of May 5 to May 25.

This year's spring turkey hunt recommendation would increase permits by 284 and offer 5,576 permits in the Limited Weapon–Shotgun Shooting Shot–Only Season. This increase is a result of permit increases in Units 1 (50 permits, 25 in each stratified hunt), 3B (25 permits) 3C (75 permits), 5A (100 permits; stratified into two hunts of 200 permits each), 5B (25 permits), 6A (50 permits in late hunt), 6B (25 permits in late hunt), 8 and 10 (25 permits), 27 (100 permits, 50 in each stratified hunt), and 35A (4 permits). The Gould's turkey population has been growing in Unit 35A and two permits are recommended on Fort Huachuca in addition to the 4 permit increase off of the Fort for a total of 8 permits. Part of the recommended increase of in Unit 6A is a result of one 25-permit juniors-only hunt moving out of that unit. Permit decreases are recommended in Unit 12A (250, 125 in each stratified hunt).

Last year was the seventh year offering of a juniors-only turkey season. A total of 150 permits were offered, with 25 permits each, in Units 1, 5B, 6A (with a stratified season), 8/10, and 27. In 2005, 122 junior turkey hunters reported harvesting 27 birds (22% hunter success). There were 327 first-choice applicants for the 150 juniors-only permits. The juniors-only season is recommended to be longer in 2006, beginning one week earlier than the standard seasons and running for 5 weeks; April 21-May 25, 2006. Juniors-only permits are recommended for an increase of 15 with 25 permits in Unit 1, 25 in Unit 5B, 25 in Unit 6A, 40 in Units 8 and 10, 25 in Unit 23, and 25 in Unit 27.

Public comment and Department response regarding proposed turkey seasons:

1. *I support the proposed changes to the spring turkey seasons for juniors.*

Thank you.

2. *Increase the number of spring turkey tags that we give to juniors.*

The juniors-only turkey season is recommended for an increase of 15 permits for spring 2006. Juniors opportunities have a demand rate of 2.3 to 1, whereas general seasons applicants have a demand rate of 3.1 to 1. In December 2005, the Commission directed the Department to provide opportunity to juniors hunters at levels equal to previous years. The Department does not recommend any change to permit numbers in response to this comment because the recommendation is in alignment with Commission direction.

3. *Establish a spring season that starts one week earlier than it does now, during the first week of which the only legal weapon is archery, and then switch to the limited weapon shotgun shooting season for the remaining 4 weeks.*

Currently, turkey seasons are established to assure that the majority of hens have been bred and are either initiating or incubating nests before the season starts. Changes to season structure that would encourage hunters to enter the field prior to the current start date may potentially impact late breeding activity, especially during years with late winters. Archers may participate in the current hunt structure and are not likely to be impacted by other hunters in the shotgun shooting seasons as may be the case with other big game hunts where rifles are used. The Department does not recommend any change to season structure in response to this comment.

Commissioner McLean pointed out that the two tags for Fort Huachuca were not noted that they were for military personnel only.

Mr. Wakeling stated that this was an oversight and would be corrected.

Motion: Hernbrode moved and McLean seconded THAT THE COMMISSION VOTE TO ADOPT COMMISSION ORDER 5 – SPRING TURKEY, AS PRESENTED, WITH THE EXCEPTION THAT THE TWO TURKEY PERMITS ON FORT HUACHUCA ARE AVAILABLE ONLY TO MILITARY PERSONNEL.

Vote: Unanimous
Melton and Golightly absent

Commission Order 6 – Javelina

Permit recommendations are made in an attempt to equitably allocate the javelina harvest among the various weapon types. Application percentages by weapon type in 2005 were 48% general firearm, 34% archery, and 18% handgun, archery, and muzzleloader (HAM). Harvest percentages in 2005 were 41% general firearm, 44% archery, and 15% HAM. Statewide hunter success rates for general firearm, archery, and HAM hunters in 2005 were 21%, 24%, and 14%, respectively.

Despite the declines in hunter success last year from previous years, lack of success can be attributed largely to inclement weather. Improved rainfall during the winter of 2004-2005 resulted in favorable conditions for javelina and tougher hunting conditions. Javelina were more widespread and flowing washes limited access by hunters. Statewide average herd size (8.5) was similar this year to the previous year (8.4) and above the 2002-2003 average of 7.4. Average herd size has remained generally stable, except for 2002-2003, since the early 1990s.

Recruitment has remained relatively stable as well, with the last two years (27:100 in 2003-2004, 24:100 in 2004-2005) improved over 2002-2003 (19:100).

This year's recommendation will increase general firearms javelina permits by 55 to 11,125, increase archery permits by 315 to 9,980, and decrease HAM permits by 100 to 6,400. Proposed javelina season dates for the 2006 seasons are January 1 to 31 for the archery season, February 17 to 23 for the HAM season, and either February 17 to 23 or February 24 to March 2 for the general season. One HAM season has been stratified in Unit 20C, and the second season is proposed to run from February 24 to March 2, 2006.

Most permit adjustments are recommended to achieve a balance of opportunity across the hunt types, considering application pressure and hunter success. Units 21, 30B, 36A, and 36C have recommended permit decreases in the general season, whereas general season increases are recommended in Units 16A, 20A, 31, 32, and 37B. A HAM hunt is recommended to rotate out of Unit 23 and into Unit 20B for a net increase of 150 permits. Unit 18B is also recommended for an increase in HAM permits. Units 21, 30B, 31, 32, and 36C are recommended for HAM permit decreases. Archery permit increases are recommended in the multiple unit hunt, Unit 20B, and Units 33 and 37B.

The Department is recommending 660 juniors-only javelina permits, an increase of 135 permits from 2005. Within the juniors-only seasons, hunts will rotate out of Units 20B, 36 (A and C), and 37A and rotate into Units 23 (net increase of 25 permits), 33 and 37B (net increase of 100 permits), and 36 (A and B) (no net change). Unit 16A is recommended for an increase (10 permits). Juniors-only hunts are recommended in 4 Regions: two in Region 3, one in Region 4, two in Region 5, and one in Region 6. The proposed season date is February 10 to 16, 2006. Junior's permits comprise 2.7% of the total permits proposed. All juniors permits were issued last year.

Commissioner Hernbrode noted that the HAM permits are below demand and that takes licenses away from archery and general season hunters. He would like to see, over the next couple of years, those brought in line so that there is equality to the demand.

Mr. Wakeling stated that the Department has an established procedure that they adhere to pretty strictly for elk, but they don't adhere to it as strictly for javelina. What that consideration involves is known as the allocation formula and it has stood up fairly well. What it takes into account is the combination of first choice application pressure and hunt success, and it tries to equitably allocate harvest based on demand. If we were to strictly adhere to that, we would actually be offering far more permits to the HAM hunter because their hunt success is so low. Consequently, we try to balance it to the best of our ability.

Commissioner Hernbrode understood, but still requested that the Department take a look at that in the future.

Public comment and Department response regarding proposed javelina seasons:

1. *Javelina in Unit 18B are causing trouble during the summer months and numbers should be reduced.*

The Department manages javelina populations based on population characteristics, and the population currently does not indicate an increase in permits is warranted. Nuisance javelina must be handled in a different manner that deals with site-specific concerns. The Department does not recommend any change to permit numbers in response to this comment.

2. *Javelina HAM hunters are not getting their fair share of the javelina harvest.*

Currently, HAM hunters have the best ratio of permits to applicants of any season type for javelina. In 2005, HAM hunter had 1.22 permits for every applicant, whereas archers had 0.94 and general season hunters had 0.8 permits for every applicant. The Department does not recommend any change to permit allocations in response to this comment.

3. *Consider increasing the allocation of juniors javelina tags. Consider establishing a proportional allocation as is done for deer and elk.*

Javelina permits are allocated in an effort to distribute opportunity in response to demand. The allocation of juniors tags is based on Commission direction in December 2004 to provide opportunity at levels equal to prior years. Juniors have received a proposed increase of 135 permits in 2006. The Department recommends no change to seasons or permits in response to this comment.

4. *Add Unit 7M to the group of units open to archery javelina hunting in Region 2.*

Very few javelina are in this unit during the archery hunting season and this proposal would not provide much opportunity. The Department does not recommend any change to open areas in response to this comment.

5. *There are seven general javelina hunts that conflict with the dates of the International Sportsmen's Expo. Would it be possible to schedule these hunts so that they avoid those dates?*

Conflicts with other events and dates are impossible to avoid. The Department does not recommend any change to season structures in response to this comment.

Motion: Hernbrode moved and McLean seconded THAT THE COMMISSION VOTE TO ADOPT COMMISSION ORDER 6 – JAVELINA, AS PRESENTED.

Vote: Unanimous
Melton absent

Commission Order 8 – Spring Buffalo

In 1994, the Commission implemented a spring buffalo season at Raymond Wildlife Area. The spring season structure has subsequently expanded to include House Rock Wildlife Area and has proven popular with hunters.

A single season of March 10 to April 9, 2006, with 5 any buffalo permits (no change from last year), is recommended for the House Rock herd that occupies Units 12A, 12B, and 13A. Three spring hunts are recommended for the Raymond Wildlife Area herd in Unit 5B. One season for

two adult bulls is recommended for May 26 to June 4, 2006 (no change from last year). Two separate hunts for three yearling buffalo each (1 permit fewer each than last year) are recommended during January 14-20 and February 3-10, 2006, respectively.

No comments were received from the public concerning spring buffalo seasons.

The Commission discussed this recommendation in light of the House Rock Wildlife Area's questionable number of bison as mentioned in Friday's agenda item number 11.

Commissioner Hernbrode pointed out that it was only five permits and that with 186 bison, the Department was a long way from the goal of reducing the herd to 100.

Motion: Hernbrode moved and Golightly seconded THAT THE COMMISSION VOTE TO ADOPT COMMISSION ORDER 8 – SPRING BUFFALO, AS PRESENTED.

Vote: Unanimous
Melton absent

Commission Order 9 – Spring Bear

Spring bear seasons were first authorized by the Commission in 1985 as a method to reduce the harvest of female bears, while still affording bear hunting opportunities. Very few bears are harvested annually during these hunts. Since 1985, 40 male bears and 11 female bears have been harvested during the spring bear season.

The 2005 spring bear season was the fifteenth year of offering a season that would remain open until either a specified number of female bears were reported harvested or the season closed. In 2005, seven male bears were harvested, six of which were taken with archery. Male bears were harvested in Units 3C, 6B, 22, 31, 34A, and 35A.

The Department recommended a March 24 to May 2, 2006 general spring bear season, which closes the first Wednesday after the female harvest objective is reached. This year's general spring bear recommendation is identical in structure, permits, and female harvest objectives as that approved by the Commission last year. Fort Huachuca is again recommended to be open in conjunction with Units 35A and 35B.

In 2006, the Department is recommending no change to archery-only spring bear season structure, permits, or female harvest objectives. Longer spring archery seasons are recommended that allow greater archery hunting opportunity and provide hunters with an opportunity to harvest nuisance bears. These longer hunts are recommended in units 3B/3C, 22, 23, 33, 34A, and 35A/35B. A March 24 to July 31, 2006 archery-only spring bear season is recommended in Unit 22, 23 and 33. An April 28 to July 31, 2006 archery-only spring bear season is recommended for Unit 34A and 35A/35B. Fort Huachuca is also recommended to be open with a harvest objective established in conjunction with Unit 35A/35B, although this season would remain open until September 3, 2006. The Department is recommending an archery-only spring bear season of April 28 to June 30, 2006 in Unit 3B/3C and an April 28-May 25, 2006 in Unit 6B.

No comments were received from the public concerning spring bear seasons.

Commissioner Hernbrode stated that he was not comfortable with the numbers reported on female bears and recommended going to a mandatory check in the spring for that harvest.

Motion: Hernbrode moved and McLean seconded THAT THE COMMISSION VOTE TO ADOPT COMMISSION ORDER 9 – SPRING BEAR, AS PRESENTED.

Vote: Unanimous
Melton absent

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3. Consideration of Proposed Commission Order 21–Waterfowl and Commission Order 22-Snipe for the 2005-2006 Hunting Season.

Presenter: Leonard L. Ordway, Game Branch Chief

The Department requested that the Commission consider and vote to approve Commission Order 21 (Waterfowl) and Commission Order 22 (Snipe), establishing seasons and season dates, bag and possession limits, and open areas. A detailed description of all proposals were made available for public review at all Department offices, and were provided to the Commission prior to this meeting.

Using a Power Point presentation, Mike Rabe, Migratory Game Bird Supervisor, briefed the Commission on Commission Orders 21 and 22, and how the recommendations were determined in regards to data collected up to this point.

Commission Order 21 – Waterfowl

A total of 5,089 Arizona duck stamps were sold to hunters for the 2004-2005 waterfowl season, which is a 26% decline from the previous ten-year average. The number of individuals actually hunting waterfowl decreased 15% from the previous season (2004-2005). This decline in hunters resulted in a 24% decline in hunter days and a 24% decrease in harvest from the 2003-2004 season.

Arizona wetlands, which include lakes, rivers, marshes, and stock tanks, continue to be affected by the long-term drought. This not only affects the availability of waterfowl habitat during migration, but directly effects waterfowl abundance and hunter participation. Areas that continue to experience use by waterfowl and hunters include the river systems such as the Colorado, Verde, and Gila Rivers. The larger central Arizona lakes such as Roosevelt and San Carlos are beginning to be less attractive to waterfowl due to the extreme low levels and, in many cases, steep banks offering poor waterfowl foraging habitat.

Arizona received significant moisture in late winter (December/January) this year which will improve wetland habitat this year. Mid-winter 2005 aerial survey flights were flown after and during rain in January. The 2005 mid-winter waterfowl survey counted 48,186 ducks, a

considerable increase over the 25,895 ducks counted in 2004. The goose count in 2005 was 16,171, almost double the 8,126 surveyed in 2004.

Those mid-winter survey flights revealed that concentrations of waterfowl were taking advantage of higher water levels in Alamo, San Carlos, and Roosevelt reservoirs. Cibola and Imperial wildlife refuges also reported improved conditions. Snowfall in the northern regions of the state filled many ephemeral wetlands in that area of the state. At this time, Mormon Lake is holding more water than it has in many years.

Most of the geese migrating to Arizona are represented by the Rocky Mountain Population (RMP) of Canada geese. RMP Canada geese are the most important geese in the bags of hunters in the interior states. In July of 2001, the Pacific Flyway Council adopted the management plan for this population of Canada geese, which established a breeding population index of 117,000 birds. Although Arizona typically supports approximately 20 to 40 breeding pairs, the majority of RMP geese wintering in Arizona migrate from northern interior states and southern Alberta, which are already above their respective breeding population objective. In 1999, the Pacific Flyway Council approved a recommendation to increase the daily bag limit on Canada geese from two to three birds. Arizona adopted the framework in the 1999-2000 Commission Order and has continued that recommendation since that time. Results from the 2004 waterfowl harvest survey revealed that of the 2,411 geese harvested in Arizona, most (approximately 1,997 birds), are harvested along the Colorado River. The 2004-2005 goose harvest in the Salt River region (Game Management Units (GMU) 22 and 23) was estimated at 81 birds. Most of this harvest was from Roosevelt Lake.

The annual spring goose production surveys conducted in GMU 1 and 27, indicate a stable resident goose population. The June 2004 survey counted 305 adult geese but 0 goslings. In 2004, 184 adults with 40 goslings were observed. Construction of experimental goose nesting platforms is underway in these areas and the effects of these structures on future goose production will be monitored.

Several habitat improvement projects have occurred within the last year in Arizona. The Hay lake restoration project is complete, and due to timely moisture, filled with water this winter. A project to fence Dipping Vat Wetland in Region I was completed with volunteer help from the Arizona Antelope Foundation and funding cost-share from the Intermountain West Joint Venture. Two moist soil units were seeded at White-Water Draw Wildlife Area this year. These moist soil units were completed under a \$50,000 grant from the North American Wetland Conservation Act and should provide considerable benefit to migrating waterfowl this winter. Restoration of the water delivery structures at Chevelon Wildlife Area are also underway. The Department is pursuing additional funds to complete restoration of this important wetland.

Habitat conditions across the Northern Great Plains improved in the winter of 2004-2005 due to late wet storms, which should lead to increased pond and pair counts. Although some Canadian provinces are still experiencing below normal precipitation, other areas appear better than last year (Alaska breeding ground areas were in fine shape this spring, about equal to last year). Preliminary results from the U.S. Fish and Wildlife Service indicate that the May pond counts, as well as the mallard pair counts, may have improved somewhat from last year. Final results of the pond counts and mallard breeding pairs will be available at the August 13-14, 2003 Commission meeting.

Ducks - State waterfowl seasons and bag limits are set each year by the U.S. Fish and Wildlife Service (Service) following the results of the May Canadian pond counts and the mid-continent breeding pair index for mallards. This information is used to select season framework packages under Adaptive Harvest Management (AHM). The AHM packages are as follows:

1. Liberal, 107 day season, 7 bird bag limit;
2. Moderate, 86 day season, 7 bird bag limit;
3. Restrictive, 86 day season, 4 bird bag limit.

At this time, it is uncertain which AHM package will be allowed under the Service frameworks. In 2002, the Service approved season extensions, to the closest Sunday to January 31st for the Moderate and Liberal packages. The Department is recommending taking full advantage of this opportunity for a late-season closing date when it benefits hunters. These alternatives apply to ducks, geese and snipe.

Both the Liberal and Moderate 2002 federal framework packages for the Pacific Flyway allowed for a 7-bird bag limit, with species bag restrictions of no more than two female mallards and two redheads, one pintail, one canvasback, and four scaup. The long-term average for both pintail and canvasback population indices will likely remain below the goals outlined in the management plans for both these species in 2004. Because the population indices are below population goals, a continuation of the restrictive bag-limit of one bird per day will probably be in place for both pintail and canvasback for the 2005-2006 season. The 2004-2005 season for pintail and canvasback was 60 days within the Liberal 107 day package. Arizona chose to allow the take of pintail and canvasback from November 18, 2004 through January 16, 2005 in the Mountain Zone, and December 2 through January 30 in the Desert Zone. This year, all indications are that there will be a partial season for canvasback, but a full season for pintail. Should partial, 60 day seasons be necessary for either species, the Department will again recommend the full 60 days, from November 24, 2005 to January 22, 2006 in the Mountain Zone and December 1, 2005 to January 29, 2006 in the Desert Zone. Scaup numbers remain below the long-term average by about 26%. At this time, the Pacific Flyway frameworks allow for no more than four scaup per day in the bag. This will most likely be the case for the 2005-2006 season pending current scaup status information.

Geese - In 2002, the Pacific Flyway Council requested that the Service include geese into the duck framework extension as well. This was approved, allowing duck and goose seasons to run the same number of days. To assure that goose reproduction in Northern Arizona is not disrupted, goose seasons within GMU 1, 22, 23, and 27 start later than goose seasons in the rest of the state.

The Department's recommendations hinge on which AHM package is called for based on surveys. At the time this memo was written, the complete results of those surveys were unknown. Therefore, the Department is recommending the following waterfowl season structures based on which framework packages will be called for when the results of the surveys are known. If the AHM model allows a Liberal season structure, the Department recommends selecting the Liberal Package below. If the Moderate season structure is selected, the Department recommends selecting the Moderate Package below.

	Total Days	Total Birds	Season Open		Season Close	
Zones			Mountain	Desert	Mountain	Desert
Liberal	107 (101 days general duck, 1 day juniors only, 5 days falconry only)	7	October 7, 2005	October 21, 2005	January 15, 2006	January 29, 2006
Moderate	86	7	October 22, 2005	November 5, 2005	January 15, 2006	January 29, 2006

Both packages have different season opening and closing dates for the mountain and desert zones. It is most advantageous to hunters to open the season earlier in the mountain zone because birds arrive in mountain waters earlier than they do in the desert, and winter storms often drive those birds to the desert part of the state late in the season. In the desert zone, the season should be open as late as possible because birds typically remain in that zone through February. Both recommendations are within the allowable Federal Frameworks.

Liberal Package

Mountain Zone

Desert Zone

Juniors-Only	Oct. 1, 2005	Feb. 4, 2006
Falconry-Only	Oct. 2 - Oct. 6, 2005	Jan. 30 – Feb. 3, 2006
General Duck	Oct. 7, 2005 - Jan. 15, 2006	Oct. 21, 2005 - Jan. 29, 2006
General Goose	Oct. 7, 2005 - Jan. 15, 2006	Oct. 21, 2005 - Jan. 29, 2006
Partial season	Nov. 17, 2005 – Jan 15, 2006	Dec. 1, 2005 – Jan 29, 2006

Restricted Goose Hunts Dec. 1, 2005 - Jan. 15, 2006 (GMU 1 and 27)
 Nov. 15, 2005 - Jan. 29, 2006 (GMU 22 and 23)

Moderate Package

Mountain Zone

Desert Zone

Juniors-Only	Oct. 15, 2005	Feb. 4, 2006
Falconry-Only	Oct. 1 – Oct. 20, 2005	Jan. 31 - Feb. 19, 2006
General Duck	Oct 22, 2005 - Jan. 15, 2006	Nov. 5, 2005 - Jan. 29, 2006
General Goose	Oct 22, 2005 - Jan. 15, 2006	Nov. 5, 2005 - Jan. 29, 2006
Partial season	Nov. 17, 2005 - Jan. 15, 2006	Nov. 26, 2005 - Jan. 29, 2006

Restricted Goose Hunts Dec. 1, 2005 - Jan. 15, 2006 (GMU 1 and 27)
 Nov. 15, 2005 - Jan. 29, 2006 (GMU 22 and 23)

The Mountain and Desert Zones in Arizona are defined by GMU within the Federal Register as follows: Desert (South) Zone: Those portions of GMUs 6 and 8 in Yavapai County, and GMUs 10 and 12B-45. Mountain (North) Zone: GMUs 1-5, those portions of GMUs 6 and 8 within Coconino County, and GMUs 7, 9, 12A. Essentially, the North Zone is in the mountainous, high elevation areas of Arizona; the South Zone is in the lowland, desert areas.

The Department is recommending adoption of the federal bag limit of seven birds per day, of which no more than two may be female mallards, two redheads, one pintail, and four scaup.

Restrictions on canvasback, pintail and scaup may change due to final analysis of the harvest strategy for those species. The Department recommends that the Commission adopt the species bag limits as prescribed by the Service for the 2005-2006 waterfowl season. Should the Service again require season within a season structure for either canvasback or pintail for the 2005-2006 season, the Department will recommend selecting the total allowable days for a Canvasback and Pintail season.

Justification:

The Department recommends continuation of the allowable framework extension for either the Moderate or Liberal package. The use of mountain and desert zones is intended to offer mountain hunters the opportunity to hunt ducks and geese when the birds are in those areas. Likewise, the later opening and closing dates for the desert zone allows those hunters to hunt as late as possible. Birds arrive earlier in the mountain areas of the state and leave as the waters freeze. In desert areas, many birds arrive later than in the northern areas and stay throughout the winter. The split season was used in Arizona in the past and there is renewed support for it among many of Arizona's waterfowl hunters. Both zones receive the maximum allowance hunt days under both the Liberal and Moderate AHM packages.

Under the Liberal package, there are 107 total hunt days allowed. In the recommendation above, 101 days are devoted to general waterfowl, five days are a Falconry-Only season and there are one-day Juniors-Only season in each zone. Federal frameworks require that the youth hunt day be a weekend day within 14 days of the General season, but may be outside the General season frameworks. The bag limits for the Juniors-Only hunts will be the same as during the General season.

Under the Moderate package, there are 86 days of general and youth waterfowl hunt days allowable. Falconry-only hunt days do not apply to the moderate package so there are 20 days of falconry season to maximize hunt opportunity for falconers.

Arizona and California are required to coordinate seasons along the lower Colorado River region. California is required to match their season along the Colorado to the Arizona season dates.

Coots and Common Moorhens - Commission Order 21 includes bag limit and season structure for coots and common moorhens within the general duck season frameworks. The Department will continue to recommend the full Federal framework and bag limit on coots and moorhens which is 25 per day, either singly or in the aggregate. Although an Arizona State Waterfowl Stamp is not required for harvest of these species, hunters taking coots or moorhens must have in their possession an Arizona Migratory Bird Stamp that registers them for the Harvest Information Program. Harvest of these species is typically incidental to waterfowl hunting, with an estimated 1,200 coots harvested during the 2004-2005 season. In 2003-2004, hunters took 1,535 coots.

Commission Order 22 – Snipe.

During the 2004-2005 season, hunters harvested 160 snipe. This is similar to the 2003-2004 survey which estimated 162 snipe harvested. Snipe hunter participation and harvest are derived

from the waterfowl questionnaire. Even though a waterfowl stamp is not required to hunt snipe, most snipe are taken opportunistically by waterfowl hunters.

The Department recommends that the Commission approve a general snipe season consistent with the total allowable season days and bag and possession limits allowed by the Service for Pacific Flyway states. In Arizona, the allowable bag is 8 snipe per day with a possession limit of 16 after opening day. Seasons for snipe are recommended to run concurrent with the general waterfowl seasons in each of the states two zones.

Motion: Hernbrode moved and Golightly seconded THAT THE COMMISSION VOTE TO APPROVE, SUBJECT TO FINAL FEDERAL FRAMEWORKS, COMMISSION ORDER 21 - WATERFOWL AND COMMISSION ORDER 22 - SNIPE, AS PRESENTED.

Vote: Unanimous
Melton absent

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Meeting recessed for a break at 9:28 a.m.

Meeting reconvened at 9:45 a.m.

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4. Options for Regulating Nonresident Big Game Hunting Permits in Light of Recent Federal Legislation Renouncing Interest in Regulating Hunting and Fishing Permits Under the Commerce Clause.

Presenter: Steve K. Ferrell, Deputy Director

Using a Power Point presentation, Mr. Ferrell briefed the Commission on options for regulating nonresident big game hunting permits in light of recent federal legislation renouncing interest in regulating hunting and fishing permits under the Commerce Clause. This item is a piece of the following agenda item number 5 and was extracted and put on the agenda by itself due to the amount of interest and discussion it would generate.

The Commission recently directed the Department to take a closer look at this in the wake of the Reid/Udall legislation that passed this summer. Commissioners McLean and Hernbrode joined several members of Department staff to look at this subject and identify potential mechanisms for protecting resident hunt opportunity.

It's the Department's recommendation to return to the 10% cap on deer, bull elk and bighorn sheep, and we propose to expand that to include all antlered deer statewide and pronghorn antelope. All caps will be applied at the hunt number level except for bighorn sheep and bison, which will be placed at the genus level.

This is in response to the Reid/Udall legislation, which lowers the standard by which states may regulate resident and nonresident hunter opportunity, from the strict scrutiny standard that was required by the Commerce Clause to what is now the rational basis standard. A state basically needs to demonstrate that any limits they choose to employ relates to a legitimate state interest. The Ninth Circuit Court has already established that there is a legitimate state interest in the form

of resident hunting opportunity, but the states must exercise some caution in how they respond to the Reid/Udall legislation for several reasons, one being the Equal Protection considerations where the U.S. Constitution would apply to any issues in this regard.

In looking at data from the deer draw success for nonresidents (pre cap) and simulated draw results on restricted deer hunts (no cap), nonresident success shows a steady increase substantially over 10%. Data on deer hunts north of the Colorado River by unit in 2005 showed an unprecedented percentage of tags going to nonresidents, with nonresident success exceeding 50% on some hunts. In addition, the Department is recommending going to a 10% cap on all antlered deer hunts statewide for several reasons. First, it preserves resident opportunity at a level prior to nonresident applications becoming a significant percentage; a 10% cap would also protect resident opportunity on premium hunts (deer north of the Colorado River) and other hunts where nonresidents are having a significant impact (white tail deer hunts); the cap would have minimal impact on other antlered deer hunts; it would insure future resident opportunity is protected; and it is reasonable and not overly restrictive.

In regards to elk, data was looked at, as with deer, that showed a steady increase in nonresident increases in the draw. In 2005 with no cap, nonresident success in some bull elk hunts exceeded 40%. The rationale for returning to a 10% cap on all bull elk hunts is that it would protect resident opportunity on hunts with high nonresident application pressure and have a minimal impact on other bull elk hunts; it preserves resident hunt opportunity at a level prior to nonresident applications becoming a significantly larger percentage; it insures future resident hunt opportunity is protected; and it is reasonable and not overly restrictive.

In regards to antelope, there has never been a cap. If you look at the data you might say a cap isn't necessary, because nonresident draw percentage through 2002 is only 4%, but when you look at specific units the draw percentage is considerably higher. In several units nonresident draw success exceeds 10% and in one exceeds 20%. It is the Department's recommendation that a 10% cap be placed on all antelope hunts at the hunt level.

On bison the nonresident draw success is fairly small, but the Department still feels that we should continue to apply a 10% cap on bison hunts because it would protect resident hunting opportunity should nonresident interest increase. There is currently a 10% cap on bison at the genus level and the Department would like to maintain that with a modification that would allow nonresidents to draw up to 10% of the permits across the State or one, whichever is greater. This change will allow nonresidents to potentially draw one tag when less than ten are available.

In regards to bighorn sheep, in a simulated draw with no caps in place, nonresident draw success would have been quite a bit higher. The Department recommends that we go back to a 10% cap on all bighorn sheep hunts, and maintain the restriction of no greater than 50% or two tags in any hunt number being available to nonresident hunters in order to maintain resident hunt opportunity.

The public has expressed an interest in applying a cap to turkey and javelina as well. Nonresident draw percentage for spring turkey in 2003 is the highest it's ever been at 2.9%, and fall turkey is lower at 1.2% and was only .8% last year. Nonresident draw success for Javelina in the past three years has hovered in the 10% range. The Department does not have a recommendation for turkey and javelina, but wanted to put this on the table for Commission

direction. Since nonresident participation on turkey is so small, the Department would caution against imposing a cap. On javelina, the nonresident success is at 10% now, but in the last three years there have been almost 4,000 left over tags, so the Department recommends that if javelina is capped, that the cap not apply to left over tags.

Commissioner McLean stated that the same logic used for sheep should be applied to antelope as well, and that is the restriction of no greater than 50% or two tags being available to nonresident hunters in any hunt.

Mr. Odenkirk stated that it may be better to use the bison caveat whereby we set a 10% or one, whichever is greater, and apply that to the hunt number level. Otherwise, nonresidents are essentially precluded from drawing any hunt that has less than ten tags.

Chairman Gilstrap commented that capping unit by unit as opposed to statewide gives the Department flexibility to make adjustments, and address low permit number units.

Mr. Ferrell stated that this issue is addressed in the Article 1 review (following agenda item).

Public Comment

Gary Drake, Arizona Desert Bighorn Sheep Society (ADBSS), read a letter to the Department from Dave Pence, President of ADBSS, which stated that ADBSS is unanimously in favor of returning to a 10% cap on nonresident bighorn sheep permits.

James Mehen, Treasurer for the Arizona Antelope Foundation (AAF), read a letter to the Department from Jim Unmacht, President of AAF, which stated that AAF is unanimously in favor of applying a 10% cap on nonresident pronghorn tags.

Don Martin, Mohave Sportsman Club, stated that he supports the Department's proposals. Additionally, he supports a cap on javelina by hunt number, because in Northwest Arizona where he lives, a disproportionate number of nonresidents hunt that area and he would like to see the residents have more opportunity to hunt close to home. On another issue, Mr. Martin would like to see nonresident guides pay higher fees.

Bill Gow, representing himself, supports the Department's proposals and thanked the Department for all they do for sportsmen.

Jon Fugate, Chairman of Legislative Affairs, Yuma Valley Rod and Gun Club (YVRGC), stated that YVRGC supports the Department's proposals and thanked the Department for their efforts in this regard.

Mike Burris, President of Wildlife Conservation Council (WCC), supports the 10% cap across the board for all animals as stated and by hunt number, and thanked the Department for all their efforts.

John and Susan Frabotta were present in support of the 10% cap.

Bruce Johnson, representing himself, supported the Department's proposals and reminded the Department that the rulemaking process to include javelina and turkey needed to be done right away in order to include them for next year.

David Myrick, representing Desert Christian Archers, was present, but also wrote a letter to the Commission. The letter stated appreciation for Commission and Department efforts; supports bonus points for all species; supports nonresident caps, including antelope; supports keeping cost for junior tags as low as possible; and stated that two surveys he conducted showed 75% public support for paying all license and tag fees upfront.

Dick King, Arizona Bowhunters Association (ABA), supports the 10% cap, and would like to see a cap on javelina as well as bonus points. Mr. King does not agree with the stipulation on antelope where, if there is only one tag in a hunt unit, a nonresident could draw for that tag.

Commissioner McLean stated that antelope should have the same stipulation as the bighorn sheep.

Commissioner Hernbrode stated that he could only support that if it doesn't make the regulations more complicated than they already are.

Mr. Ferrell stated that out of 54 sheep hunts, 18 of them have one tag in them, so there is a significant number that only have one tag. On antelope hunts, there are only 4 out of 55 that only have one tag.

Commissioner McLean asked about left over tags, stating that it is his intent to not apply a cap to leftover tags.

Mr. Ferrell stated that the assumption is that the cap applies only to the draw, and leftover tags are not affected; however, that concern could be addressed in the rule language.

Mr. Odenkirk proposed that in regards to R12-4-114, language be added as a statement in the end that any cap established in this rule does not apply to a permit tag issued on a first-come, first serve basis.

The Commission made their recommendations for each species as follows:

Motion: McLean moved and Hernbrode and Golightly seconded THAT THE COMMISSION VOTE TO IMPLEMENT A 10% CAP ON ALL ANTLERED DEER ON A HUNT NUMBER BASIS.

Vote: Unanimous
Melton absent

Motion: Hernbrode moved and McLean seconded THAT THE COMMISSION VOTE TO IMPLEMENT A 10% CAP ON ALL BULL ELK HUNTS ON A HUNT NUMBER BASIS.

Vote: Unanimous
Melton absent

Motion: Golightly moved and McLean seconded THAT THE COMMISSION VOTE TO IMPLEMENT A 10% CAP ON ALL ANTELOPE HUNTS ON A HUNT NUMBER BASIS; AND IF A HUNT NUMBER FOR ANTELOPE HAS TEN PERMIT TAGS OR FEWER, NO MORE THAN ONE HUNT PERMIT TAG WOULD BE AVAILABLE TO A NONRESIDENT, EXCEPT IF A HUNT NUMBER FOR ANTELOPE HAS ONLY ONE HUNT PERMIT TAG, THAT PERMIT TAG SHALL BE AVAILABLE TO A RESIDENT.

Vote: Unanimous
Melton absent

Motion: Golightly moved and Hernbrode seconded THAT THE COMMISSION VOTE TO MAINTAIN A 10% CAP ON BISON HUNTS ON A STATEWIDE BASIS; WITH A MODIFICATION TO ALLOW NONRESIDENTS TO DRAW UP TO 10% OF THE PERMITS OR ONE, WHICHEVER IS GREATER.

Vote: Unanimous
Melton absent

Motion: Hernbrode moved and McLean seconded THAT THE COMMISSION VOTE TO IMPLEMENT A 10% CAP ON ALL BIGHORN SHEEP HUNTS ON A STATEWIDE BASIS; AND FURTHER, MAINTAIN THE RESTRICTION OF NO GREATER THAN 50% OR TWO TAGS BEING MADE AVAILABLE TO NONRESIDENT HUNTERS IN ANY HUNT NUMBER.

Vote: Unanimous
Melton absent

The Commission discussed javelina in regards to Mr. Martin's comments about the disproportionate number of nonresident javelina hunters in Northwest Arizona.

Linda Melker, from the Information Systems Branch, Arizona Game and Fish Department, addressed the Commission and provided data on the last spring draw for javelina. The application rate for Unit 18B was 169 residents and 97 nonresidents. The draw rate was 126 residents and 74 nonresidents, and that was on the HAM hunt.

Mr. Ferrell added that in Unit 18B's general, there was a 28.7% nonresident draw success

Motion: McLean moved and Golightly seconded THAT THE COMMISSION VOTE TO INCLUDE JAVELINA ON A HUNT NUMBER BASIS WITHIN THE 10% CAP RULE.

Commissioner Hernbrode stated that he will vote no because javelina is unique for nonresidents and that is something that we can offer at a higher level. Also, in general it does not limit the resident opportunity to hunt javelina.

Commissioner McLean agreed with Commissioner Hernbrode, but believed those hunts could be distributed more widely across the State rather than having so many in one or two specific areas.

Vote: Aye – Gilstrap, Golightly, McLean
Nay – Hernbrode
3 Aye, 1 Nay, Melton absent

Commissioner McLean, in regards to turkey, stated that in view of the extremely small percentage in nonresident applications and nonresident permits issued, that turkey should not be included in the 10% nonresident cap.

Motion: McLean moved and Golightly second THAT TURKEY NOT BE INCLUDED IN THE 10% NONRESIDENT CAP.

Chairman Gilstrap asked if there might be any advantage to being consistent across the board with all big game hunt permit tags; and also the Department intends to increase turkey numbers substantially.

Public Comment

Dick King, ABA, addressed the Commission stating that the Gould's turkey is an extremely limited opportunity nationwide.

Bruce Johnson commented that for the sake of being consistent, the cap should apply for all big game.

Motion Withdrawn.

Motion: McLean moved and Hernbrode seconded THAT THE COMMISSION VOTE TO INCLUDE TURKEY IN THE 10% CAP ON A HUNT NUMBER BASIS; AND IF A HUNT NUMBER FOR TURKEY HAS TEN PERMIT TAGS OR FEWER, NO MORE THAN ONE HUNT PERMIT TAG WOULD BE AVAILABLE TO A NONRESIDENT, EXCEPT IF A HUNT NUMBER FOR TURKEY HAS ONLY ONE HUNT PERMIT TAG, THAT PERMIT TAG SHALL BE AVAILABLE TO A RESIDENT.

Vote: Unanimous
Melton absent

Mr. Odenkirk pointed out that Congress passed the Reid/Udall legislation in a supplemental appropriation and that there was very little opposition to that bill because it was funding the war in Iraq. There is a lot of information out there now that many congressmen, if they knew what they were voting on, would not have voted to support this legislation. In light of that, Congress has taken a very careful oversight role in looking at what states are going to be doing in response to this legislation. The Commission here today has extended caps into areas where they didn't exist prior to the Reid/Udall legislation. Mr. Odenkirk's concern and caution to the Commission is that he would hate to see what's been done today being used as an example in Congress in the next few months as to why Congress should reverse itself in this area. Not that there isn't a legal justification for extending these caps to other species, because that can be shown with regard to certain units that nonresidents are taking an increasing number of permits, but Mr. Odenkirk wanted to remind the Commission that there are some larger issues that still loom out there with regard to Commissions actions.

Mr. Ferrell clarified that he had four items to change in Article 1 for agenda item number 5 based on decisions made in this agenda item number 4: 1) Change paragraph E to address deer, elk, and antelope hunts with less than one tag; 2) add language offered by Mr. Odenkirk regarding left over tags being exempt from the 10% cap; 3) include javelina in 10% cap; and 4) include turkey in 10% cap.

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Meeting recessed for a break at 11:35 a.m.

Meeting reconvened at 11:55 a.m.

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5. Request to Approve a Notice of Proposed Rulemaking to Amend Article 1 Rules, Dealing with Definitions and General Provisions, as Stated in the 2004 Five-Year Rule Review Approved by GRRC and to Reinstitute Limits on Non-Resident Hunt Permit-Tags

Presenter: Sherry Crouch, Acting Rules and Risk Manager

NOTE: The Notice of Proposed Rulemaking and the Economic Impact Statement were not attached to this package because the rule language to reinstitute limits on non-resident hunt permits-tags is being finalized. These documents will be sent to the Commission under a separate cover letter as soon as they are completed. However, the Commission memo contained a summary and impact of the proposed changes following the 2004 five-year rule review.

At its April 2004 meeting, the Arizona Game and Fish Commission directed the Department to submit a Notice of Docket Opening to begin the regular rulemaking process to amend the rules of Article 1, dealing with definitions and general provisions, as identified in the 2004 five-year rules review report. The report, as required by statute, identified key areas where the Commission's rules were lacking in some respect, and prescribed methods to address those deficiencies. Public meetings were held across the state in December to gain input on the proposed changes from the regulated community.

Since the opening of the original docket, additional rule revisions have become necessary to address issues that have arisen subsequent to the original five-year rule review report, including reinstituting limits on non-resident hunt permit-tags. In order to conserve time and resources, the Notice of Proposed Rulemaking contains revisions intended to address these new concerns. For this reason, submission of official proposed rule changes was delayed. A second Notice of Docket Opening was approved by the Commission in June 2005 to complete the rulemaking process for the rules under this Article.

Given the timing of the additional changes, the Department was not able to conduct additional public meetings to notify the public. The Department will notify the public of the changes made in the Notice of Proposed Rulemaking by sending out postcards to all individuals on the Department's Rulemaking mailing list and publicizing it in the Department's bi-weekly newsletter. After the Notice of Proposed Rulemaking is submitted and published, the Department will accept public comment on the proposed changes for 30 days, as required by A.R.S. Title 41.

OBJECTIVE OF THE RULEMAKING:

The Department proposed the following amendments to the Commission's Article 1 rules dealing with definitions and general provisions. The Department anticipates the rules will also have the following impact.

R12-4-101. Definitions

- Amend the definition of "crayfish net" to mean a net not to exceed 36 inches, rather than 24. This will allow people to lawfully use crayfish nets that are the industry standard size.
- Amend the definition for "stamp" so that it includes the various forms that the Department issues, as well as how to use them. The Department has had problems with this in the past.
- Add a definition for "antlerless" that clearly states wildlife is considered antlerless if it does not have an antler, antlers, or any part thereof erupted through the skin. The definition for "antlered" is not sufficient for the regulated community to understand what "antlerless" is, as it is used in Commission Order.
- Add a new definition for "designated" that refers to the gender, age, or species of an animal or the specifically identified animal the Department authorizes to be taken under a valid tag. Again, this is a term that is used in Commission Order that is not readily understood by the regulated community.

R12-4-102. Fees for Licenses, Tags, Stamps, and Permits

- Add the Class I, resident family fishing license, and the prescribed fee. The Class I license is authorized by statute, but has never been added. The license costs \$30.50 for the first adult, an additional \$30.50 to include a spouse, and an additional two dollars for every child in the immediate family included on the license.
- Amend the "state waterfowl stamp," "state migratory bird stamp," "trout stamp," "two-pole stamp," and "Unit 12A (North Kaibab) Habitat Management Stamp" to clarify the wildlife or activity for which the stamp is valid, and the rule that governs its use.
- Increase the fee for a "two-pole stamp" from four to five dollars. When the Department amended this rule to increase fees to their statutory maximum in 2003, this fee was not included.
- Amend the fee for a "white amur stocking license" in conjunction with proposed amendment to R12-4-424 to eliminate the \$200.00 renewal fee for a white amur stocking license if the license holder is a private individual, and not a business.
- Amend the names of licenses listed under "other license fees" that are authorized under Article 4 as they will be amended when Article 4 itself is amended.

R12-4-103. Duplicate Tags and Licenses

- Amend the rule to require that if an applicant is a resident, the applicant provide the length of Arizona residency. The reason is so that the Department's customer service representatives will be able to look up the applicant's eligibility more quickly.
- Amend the rule to make it consistent with amendments to R12-4-112, and to allow an individual to apply for a duplicate permit-tag if the individual attests that the original tag was placed on a harvested animal that was subsequently condemned, and the carcass and all parts were surrendered to the Department.

R12-4-104. Application Procedures for Issuance of Hunt Permit-tags by Drawing

- Add a new subsection that prescribes qualifications for applying for a hunt permit-tag or to purchase a bonus point. A qualified applicant shall be at least ten years old when the hunt they apply for begins; shall have completed a Department-approved hunter education course if under the age of fourteen; and does not have their hunting privileges suspended or revoked in this state or any state participating in the Wildlife Violator Compact. The objective of the amendment is to prevent parents from entering their infant children into the draw for the purpose of receiving bonus points, and affecting the draw.
- Amend the rule to allow the Director to extend the application deadline to enter the hunt permit-tag draw if problems occur that prevent the general public from submitting applications. This will allow the Department to resolve problems that have occurred, such as the problems with the online draw system, without requiring direction from the Commission.
- Amend the rule to clarify the requirement that applicants for a hunt permit-tag or a bonus point provide their own contact and address information when applying. This information is necessary in case the Department needs to make direct contact with the applicant, instead of an applicant proxy.
- Amend the rule to clearly state that taking the lifetime bag limit of one subspecies of bighorn sheep does not eliminate an individual from applying for the other (Rocky Mountain Bighorn and Desert Bighorn).
- Amend the rule to allow the Department to retain application fees for all applications. Previously, the Department was not able to retain the fee for a rejected application. This amendment will allow the Department to recoup the cost for processing the application.
- Amend the rule to authorize the Department to take action if a Department error results in any of the following: 1) an individual submitting an invalid application for a hunt permit-tag, 2) an individual not being able to lawfully submit a valid application, 3) denial of a hunt permit-tag, or 4) an individual's bonus points not being applied to an application.

R12-4-105. License Dealer's License

- Amend the rule to remove the requirement that a license dealer outlet specialize in the sale of equipment for either hunting, fishing, or trapping; and alleviating the Department of the requirement to assess the need for a license dealer in a particular area. The Department is primarily concerned with whether or not a license dealer can demonstrate a stable location and financial stability.
- Amend the rule to exempt the Department from providing licenses for sale to those dealers authorized to use their own license stock.

R12-4-106. Licensing Time-Frames

- Add language that describes licensing time-frames that was deleted from R12-4-409. This rule is a more appropriate area for the language.
- Add time frames for issuance of a "small game depredation permit" and delete "tournament fishing license." A small game depredation permit requires more than seven days to issue, and the tournament fishing license no longer exists in rule.
- Amend the dates when the Department will accept proposals for special big game tags. Currently, proposals are submitted from July 1 to September 30. In consideration of organizations that make proposals, the submission dates will be changed to March 1 to May 31.

R12-4-107. Bonus Point System

- Amend the rule to add bear, turkey, and javelina to the list of bonus point species. It is becoming more difficult to draw a tag for these species, so the Department is proposing to issue bonus points for them to improve draw odds.
- Amend the rule to clarify the intent of the loyalty bonus point, and to allow a person to receive one if they apply at least once a year for the draw for a particular genus species or purchases a bonus point for that species within the required five-year period.

R12-4-108. Management Unit Boundaries

- The Department is amending the rule in general to remove outdated information and to clarify the boundaries for game management units (GMU'S).
- The Department proposes to amend the rule to establish a new GMU, 47M, which will encompass the metro Phoenix area. This will allow the Department to be more responsive in regulating the area.

R12-4-110. Posting and Access to State Land

- Amend the rule to make it consistent with the State Land Department's rules, so that both agencies can regulate state land use uniformly and equitably.
- Amend the rule to require that if an individual opens a gate on state land while exercising hunting, fishing, or trapping privileges the individual shall also close the gate. The Department has received complaints from state land lessees who have had problems in the past with opened gates that have resulted in lost livestock.

R12-4-111. Identification Number

- No substantive amendments will be made.

R12-4-112. Diseased or Injured Wildlife

- Amend the rule to authorize designated Department employees to condemn the carcasses of lawfully taken and possessed wildlife that have been chemically immobilized. The objective of the amendment is to provide people that unknowingly harvest an animal that had been recently tranquilized by the Department an opportunity to harvest another animal.

R12-4-113. Small Game Depredation Permit

- No substantive amendments will be made.

R12-4-114. Issuance of Nonpermit-tags and Hunt Permit-tags

- Amend the rule to include the new species for which bonus points will be issued.
- Amend the rule to issue 20% of all hunt permit-tags for buffalo and bighorn sheep to bonus point holders, instead of issuing 20% in each hunt number. This will more evenly distribute tags through the bonus point system, because not all hunts for these species have enough tags from which to take 20%
- Amend the rule to reinstitute limits on non-resident hunt permit-tags.

R12-4-115. Supplemental Hunts and Hunter Pool

- Amend the rule to authorize a Department-authorized agent to receive hunter pool applications. The principle objective of this amendment is to establish it in rule now in case the Department ever decides to exercise it.
- Add a new subsection to clearly state that an individual that participates in a

supplemental hunt shall not reapply for the hunter pool for that genus until that hunter pool is renewed. This is so that other hunters that enter the pool will have a chance to participate as well.

R12-4-116. Reward Payments

- Amend the qualifications for receiving a reward so that they are more understandable.
- Amend the reward payment amounts to prescribe minimum reward of \$50 and a maximum reward of \$150 for information regarding wildlife not specified in the rule. Currently, the Department issues one-half the prescribed civil value prescribed in A.R.S. § 17-314, but these values are sometimes insufficient compared to the value of the information given.

R12-4-117. Indian Reservations

- No substantive changes will be made.

R12-4-119. Arizona Game and Fish Department Reserve

- Amend rule to allow commissioned reserve officers to assist with off-highway vehicle enforcement patrols.
- Amend rule to authorize non-commissioner reserve volunteers to perform any non-enforcement duties designated by the Director, such as wildlife presentations to public schools. The objective of the rule is to maximize the effectiveness of paid staff time.

R12-4-120. Issuance, Sale, and Transfer of Special Big Game License Tags

- As in R12-4-106, the rule will be amended to change the submission deadlines for submission of proposals. Currently, the submission dates are July 1 to September 30. These dates will be amended to March 1 to May 31.
- Amend the rule to clarify what constitutes tax exempt status. The Department is trying to stem the flow of proposals submitted by organizations that are not tax-exempt, and therefore ineligible to apply.
- Amend the rule to require that a successful applicant for a special big game tag transfer all proceeds from the sale of the tag to the Department within 90 days of the date the applicant sells or awards the tag. The tag shall not be issued until the proceeds are received. The Department's objective is to gain greater control over state funds.
- Amend the rule to state that the Department and the successful applicant shall coordinate, rather than agree to, the use of funds. The Department's objective is to gain greater flexibility in determining the use of these funds to avoid unlawful abrogation of authority for managing public funds.
- Amend the rule to clearly state that a special big game license tag is valid only for the season dates on the tag. The Department has become aware that this is not always understood by the regulated community.

R12-4-121. Big Game Permit or Tag Transfer

- Amend the rule to add a new subsection to allow an individual that is issued a hunt permit-tag through the big game draw to donate the tag to a qualified non-profit organization, as authorized by recent statutory changes. The subsection will also prescribe procedures for non-profit organizations to lawfully transfer the tag.

R12-4-122. Handling, Transportation, Processing, and Storing of Game Meat Given to Public institutions and Charitable Organizations

- Amend the rule to allow a person to donate a javelina to a qualified organization. Public perception of javelina meat has changed since the last making of the rule, and has made it more acceptable to be donated.

R12-4-123. Expenditure of Funds

- No substantive changes will be made.

The Notice of Proposed Rulemaking, the preliminary economic impact statement, a summary of the preliminary public comments, and a timeline were provided prior to this meeting for the Commission's consideration.

If the Commission approves the Notice of Proposed Rulemaking and the preliminary economic impact statement, the Department will submit the notice to the Secretary of State Publications Office by August 19, 2005, for publication in the *Arizona Administrative Register*. The Department anticipates that the rules will become effective and enforceable, at the latest, by April 2006, before the 2006 hunt draw.

Motion: McLean moved and Hernbrode seconded THAT THE COMMISSION VOTE TO APPROVE A NOTICE OF PROPOSED RULEMAKING TO AMEND ARTICLE 1 RULES, DEALING WITH DEFINITIONS AND GENERAL PROVISIONS, PRINCIPALLY AS STATED IN THE 2004 FIVE-YEAR RULES REVIEW REPORT APPROVED BY GRRC AND TO REINSTITUTE LIMITS ON NON-RESIDENT HUNT PERMIT-TAGS, WITH THE FOLLOWING AMENDMENT ON R12-4-114, PARAGRAPH E, AND THAT THE RULE BE AMENDED TO STRIKE THE PRESENT LANGUAGE AND READ AS FOLLOWS: THE DEPARTMENT SHALL NOT MAKE AVAILABLE MORE THAN 10% OF THE TOTAL HUNT PERMIT TAGS IN ANY HUNT NUMBER TO NONRESIDENTS FOR ANTLERED DEER, BULL ELK, ANTELOPE, JAVELINA, AND TURKEY; AND IF A HUNT NUMBER FOR ANTLERED DEER, BULL ELK, ANTELOPE, JAVELINA, OR TURKEY HAS TEN HUNT PERMIT TAGS OR FEWER, NO MORE THAN ONE HUNT PERMIT TAG WILL BE MADE AVAILABLE TO A NONRESIDENT, EXCEPT THAT WHEN A HUNT NUMBER HAS ONLY ONE PERMIT TAG, THAT HUNT PERMIT TAG SHALL ONLY BE AVAILABLE TO A RESIDENT. THE NOTICE WILL BE SUBMITTED TO THE SECRETARY OF STATE'S OFFICE FOR PUBLICATION IN THE *ARIZONA ADMINISTRATIVE REGISTER*.

Public Comment

Bruce Johnson stated that he appreciated and was in support of a couple other items in the rule language, including changes to the reward program and the language that changes the 20% bonus point pass to apply to the genus instead of the hunt number. In the future, it would be nice if drafts like this could be out on the website in advance of the meetings.

Corry Richardson stated that he hunts in nine different states and asked where the 10% figure came from. Other states take care of their residents better than Arizona has in the past; what Arizona gives to the nonresidents is extremely liberal.

Mr. Odenkirk responded to the issue of whether there is a rational basis for selecting 10%. The rule record discusses that and there is a historical perspective on the percentage of nonresident applications over time. For many years nonresidents did not apply in very significant numbers, but increasingly they did begin to apply in much greater numbers, taking away permits from residents. What we found was that 10% was kind of a historical figure where for many years nonresidents received 10% or greater of the permits and what we are trying to do is preserve that historical resident opportunity. So 10% does have a basis in the statistics and is not just an arbitrary number that was selected and it was not based on what other states were doing.

Commission McLean stated for the record how the Department arrived at the 10% figure. At the June 2005 Commission meeting, the Commission directed and the Chairman appointed Commissioner Hernbrode and myself to join with a committee made up of several members of the Department. We met on multiple occasions and were provided with a wealth of information and statistics. To the best of our abilities, we digested and discussed that information, and we, as a committee, came to the conclusion that not only was a cap of some percentage, as opposed to a set aside of some percentage, the appropriate recommendation to make. We came to the conclusion that it was a 10% cap that would be appropriate and fair, and that 10% was not punitive toward our nonresident hunters. We brought this recommendation to the Commission through the recommendations of the Department in regards to bighorn sheep, bison, elk, deer and antelope. There was then some additional discussion as to javelina and turkey. We looked at those statistics and listened to public input, which brought to our attention that javelina and turkey should be included in the 10% cap. We came to the conclusion that applying a 10% cap as to bighorn sheep, bison, elk, deer, antelope, javelina and turkey was fair, and there was a rational basis for applying the cap to all of those species. This was done methodically, thoughtfully and non-punitively, and we strived for consistency, simplicity and fairness. If this record is reviewed in its broad context, it will reflect that that is what we have done.

Dana Yost, Support Services Branch Chief, clarified that in addition to paragraph E, the Commission was also addressing paragraph F, which reads: Any cap established in this section only applies to hunt permit tags issued by random drawing.

Richard Rico, Assistant Director, Special Services Division, clarified for the Commission in regard to the 20% Bonus Point Pass, which will now be applied at the genus level for bighorn sheep and buffalo. One of the things to be aware of is that there is the potential during the draw on any one of those hunts that all the tags may go into the 20% Bonus Point Pass, which is the intent of the bonus point system.

Vote: Unanimous
Melton absent

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6. Request to Approve a Notice of Proposed Rulemaking to Amend Article 2, Miscellaneous Licenses and Permits, Subsequent to the 2004 Five-Year Rule Review Approved by GRRC.

Presenter: Sherry Crouch, Acting Rules & Risk Manager

At its April 2004 meeting, the Arizona Game and Fish Commission directed the Department to submit a Notice of Docket Opening to begin the regular rulemaking process to amend the rules of Article 2, dealing with miscellaneous licenses and permits, as identified in the 2004 five-year rules review report. The report, as required by statute, identified key areas where the Commission's rules were lacking in some respect, and prescribed methods to address those deficiencies. Public meetings were held in February across the state to gain input on these proposed revisions.

Since the opening of the original docket, continuous delays in the rulemaking process outside of the control of the Department have stretched participatory staff's resources in meeting the requirements of the rulemaking process, as well as fully addressing the concerns specified in the proposed rulemaking. For this reason, submission of official proposed rule changes was delayed. A second Notice of Docket Opening was approved by the Commission in June 2005 to complete the rulemaking process for the rules under this Article.

Ms. Crouch noted one change that needed to be made under R12-4-208, Guide Licenses, and that is to add the word felony to the last sentence of the first bulleted item as follows: The list will be replaced with a blanket statement that says violation of any felony federal wildlife law precludes an applicant from receiving a guide license.

OBJECTIVE OF THE RULEMAKING:

The Department is proposing the following amendments to the Commission's Article 2 rules dealing with miscellaneous licenses and permits. The Department anticipates the rules will also have the following impact.

R12-4-201. Pioneer License

- Amend the rule to require the Department to notify anyone whose application for the license is rejected, and offer information on how to appeal the decision. The Department's objective is to extend the same information that is offered to other license applicants.

R12-4-202. Disabled Veteran's License

- Amend the rule to require the Department to notify anyone whose application for the license is rejected, and offer information on how to appeal the decision. The Department's objective is to extend the same information that is offered to other license applicants.
- Delete the requirement that an applicant for a disabled veteran's license submit certification of disability with their application within 90 days of receiving the certification. The Department only issues a license if the applicant can demonstrate permanent disability, and if they can, there does not seem to be a reason to require certification within 90 days of receiving it.

R12-4-203. National Harvest Information Program

- The Department will not make any substantive changes.

R12-4-204. Sikes Act Habitat Management Stamps

- The Department is proposing to add a new rule to instruct people on the use of a stamp that is authorized under the Sikes Act. Currently, the only stamp that is so authorized is the Unit 12A (North Kaibab) Habitat Management Stamp, which costs \$15.00. The Department has determined that it is necessary to instruct the regulated community on how to use and possess the stamp to account for the various forms a stamp can take.

R12-4-208. Guide License

- The Department is amending the rule in general to raise requirements for issuance of a guide license, and to hold licensed guides to a higher standard. The Department thus proposes to amend the rule to delete the list of specific wildlife laws that eliminate an applicant from consideration for a guide license, because it is not inclusive enough. The list will be replaced with a blanket statement that says violation of any felony federal wildlife law precludes an applicant from receiving a guide license.
- The Department also proposes to amend the rule to preclude an applicant from being issued a guide license if the applicant's privilege to guide or act as a guide is currently revoked or suspended.
- The Department also proposes to amend the rule to preclude an applicant from being issued a guide license if the applicant has been convicted of a violation of a federal or state wildlife law for which a license to take wildlife can be revoked or suspended within five years of the date the application is made. An applicant will only be disqualified from receiving a guide license under this subsection if they have been convicted for such an offense as of 2006.
- Add a new subsection that will give an applicant special consideration if the applicant violated a wildlife law, but immediately and voluntarily reported the violation. The Department's general objective is to increase ethical standards among licensed guides, not to preclude those who have demonstrated ethical behavior despite their mistakes.
- Amend the rule to allow an applicant to take the guide license exam on the first Monday of the month. This resolves the concern expressed by some that there is no set day for administering the exam, which has affected the effectiveness of the rule.
- Amend the rule to clearly state and emphasize that when a guide and a client are hunting with the aid of dogs, the client shall be present during the pursuit of the wildlife.
- Add a subsection that requires that an individual who acts as a guide shall not aid, counsel, agree to aid, or attempt to aid another individual in planning or engaging in conduct that results in a violation; and that an individual who acts as a guide shall report any violation committed by a client.
- Amend the rule to no longer require that a fishing guide retake the guide exam to renew a license if the guide is convicted of violating a watercraft law. The Department does not believe that violation of watercraft laws necessarily relates to ignorance of wildlife laws, which is the principle knowledge a guide is responsible to demonstrate.

R12-4-215. Tournament Fishing License

- Repeal the rule. There is no statutory authority to support it.

R12-4-216. Crossbow Permit

- Delete subsections that place requirements on the agency that are not generally extended to other licensing procedures, and prescribe practices that belong in Department policy. This will not affect how the Department issues crossbow permits.

- Amend the rule to allow any doctor licensed by a state board of the United States to issue a certification of disability. Non-resident hunters have had problems applying for crossbow permits, because they are not reasonably able to receive the required disability certification from an Arizona-licensed doctor, even if they meet the disability criteria.

R12-4-217. Challenged Hunters Access/Mobility Permit

- Clarify what disabilities make an individual eligible for a CHAMP. The various qualifying disabilities are not always understood.
- Delete subsections that place requirements on the agency that are not generally extended to other licensing procedures, and prescribe practices that belong in Department policy. This will not affect how the Department issues crossbow permits.
- Amend the rule to allow any doctor licensed by a state board of the United States to issue a certification of disability. Non-resident hunters have had problems applying for the CHAMP, because they are not reasonably able to receive the required disability certification from an Arizona-licensed doctor, even if they meet the disability criteria

The Notice of Proposed Rulemaking, the preliminary economic impact statement, and a summary of the preliminary public comments were provided to the Commission prior to this meeting for consideration.

If the Commission approves the Notice of Proposed Rulemaking and the preliminary economic impact statement, the Department will submit the notice to the Secretary of State Publications Office by August 19, 2005, for publication in the *Arizona Administrative Register*. The Department anticipates that the rules will become effective and enforceable by April 2006, before the 2006 hunt draw.

Motion: McLean moved and Hernbrode seconded THAT THE COMMISSION VOTE TO APPROVE A NOTICE OF PROPOSED RULEMAKING TO AMEND ARTICLE 2, MISCELLANEOUS LICENSES AND PERMITS, PRINCIPALLY AS STATED IN THE 2004 FIVE-YEAR RULES REVIEW REPORT APPROVED BY GRRC. THE NOTICE WILL BE SUBMITTED TO THE SECRETARY OF STATE'S OFFICE FOR PUBLICATION IN THE *ARIZONA ADMINISTRATIVE REGISTER*.

Vote: Unanimous
Melton absent

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7. Request to Approve a Notice of Rulemaking Docket Opening and a Notice of Proposed Rulemaking to Amend Article 3 rules, dealing with the taking and handling of wildlife, to authorize the use of a two-part tag, establish a "livestock predation" season, and prescribe additional check-out requirements for mountain lion hunts.

Presenter: Sherry Crouch, Acting Rules and Risk Manager

The Department asked the Commission to approve a Notice of Docket Opening and a Notice of Proposed Rulemaking to amend the rules of Article 3, dealing with the taking and handling of wildlife, to improve wildlife management and to meet the needs of the regulate community.

The proposed rulemaking would authorize the implementation and use of a “two-part” tag. The Department has sporadically received comments from the public requesting a means to authorize another individual to possess a separate piece of an animal that is taken in the field. Currently, Commission rules do not allow another individual to possess the severed parts of an animal that was tagged and taken by another individual. A new “two-part” tag would give a hunter the option of attaching one part of the tag to one part of an animal, and the other part of the tag to another part of the animal. Both parts of the tag would include information about the individual that took the animal, such as name and hunter ID number, but the second half of the tag would also include a form of authorization from the hunter that allows the other person to possess that other part of the wildlife. The shipping and transport portion of the tag would not be affected. The Department is only proposing to offer this option in antlered hunts for elk and deer, antelope, and buffalo.

This rulemaking would also establish a “livestock predation” season. Currently, the Department authorizes a property owner or livestock owner and operator to take depredating wildlife if it damages property or kills livestock under A.R.S. §§ 17-239 and 17-302. However, both of these statutes prohibit the hunter that takes the wildlife to possess it. The proposed rulemaking would allow the Commission to open a new type of season for the purpose of taking bear or mountain lion that has demonstrably preyed upon livestock. This season would be authorized under the Commission’s authority in A.R.S. § 17-234 to open and close seasons, and would allow a hunter that participated in the season to possess wildlife that is taken.

Lastly, the proposed amendments would require that a hunter that takes either bear or mountain lion report the take within 48 hours, if the Department requires inspection of either species. The rulemaking would also require that within 10 days of taking a bear or mountain lion, each hunter shall present the skull, hide, and attached proof of sex for inspection to the Department. A caveat is added that if a hunter freezes the skull before presenting it for inspection, in case the hunter was preparing it for taxidermy, the hunter shall prop the jaw open to allow access to the teeth. The Department’s reason for proposing this change is so that wildlife managers can obtain more accurate wildlife data, and be more reactive in their efforts to regulate the take of bear and mountain lion. For some Commission authorized mountain lion hunts, only a few animals are authorized to be taken. In those game management units where there are so few tags available, the Department wants to ensure that the harvest objective is adhered to as closely as possible.

Because this rulemaking is expedited, the Department did not have an opportunity to conduct any public meetings before going to the Commission. Therefore, the Department plans to hold a public hearing to gain input from the regulated community on October 15, 2005, at the Arizona State Fairgrounds Wildlife Building. The Department requests that the Commission authorize the Director to designate a public hearing officer to coordinate and facilitate this meeting.

The Commission will have the opportunity to approve or reject any amendments to the rules as part of the rulemaking process. If approved by the Commission, the Notice of Docket Opening and the Notice of Proposed Rulemaking will be filed with the Secretary of State by August 19, 2005, for publication in the *Arizona Administrative Register*. The anticipated effective date for the Article 6 rule amendments will be April 2006, before the 2006 hunting season.

The draft Notice of Rulemaking Docket Opening, Notice of Proposed Rulemaking, the preliminary Economic Impact Statement, and the anticipated schedule for the proposed rulemaking's effectiveness were provided to the Commission for review prior to this meeting.

Commissioner Hernbrode asked about the 10 days to provide proof of sex in regards to bear. The harvest of female bears is the key to shutting that season down. Waiting 10 days to have proof of that seems to present a problem.

Leonard Ordway, Game Branch Chief, addressed this concern stating that the Department's teams and biologist examined all aspects of management of predators, including black bears. Right now there is a 48 hour call in and we intend to continue that, and it's probably the best thing to do administratively to cause closes within a season structure. We also have a mandatory check in 10 days later, in case there we have a mix up in what's reported on the phone.

Public Comment

Stephanie Nichols-Young, Animal Defense League of Arizona (ADLA), commented on a couple issues with this proposed rulemaking. It's important for the public to see this plan and have an opportunity to comment on it before it's implemented. As for check stations, ADLA has been asking for a physical check of lions for years, so they are pleased to see this proposal. This is a huge opportunity to learn about lions. There is some concern as to whether the data collected from just the skull, hide and proof of sex will be enough. As technology continues, the concern is will those pieces of lion allow the Department to gather the data it will want to gather. As to the livestock predation season, there is a great deal of concern about this proposal because it creates a livestock predation season, which has not existed until now. We have philosophical concerns and believe that lions play a critical role in the ecosystem, and we need to move away from killing more predators that we can sustain. Additional concerns are in regards to how this will be policed to keep people from claiming predation on an unlimited number of lions.

Mr. Ordway, Game Branch Chief, responded that the Department is looking at early summer through the summer period for potentially being able to close lion hunting to protect the productive segment of the population. However, you still have ARS 17-302 in place, which is the stock depredation law. The intent is that during the closed season, the Department would allow the opportunity for sport harvest to occur, if necessary, so we don't end up having a lion killed and just wasted. As for constraints and control, it will be the same that applies within ARS 17-302, which is governed by statute. So this is setting in place the potential for lion management; allowing some closure and at the same time, where depredation occurs, sport harvest could occur and the animal not be wasted.

Chairman Gilstrap asked if this would open the door to unlimited take, to which Mr. Ordway stated that the sport harvest would be limited to those animals that could be proven as depredating lions pursuant to ARS 17-302.

Ms. Nichols-Young stated that this rulemaking does not say that this special depredation season would only be open in the event that other lion seasons were closed. It says it creates a new season and there is no definition or explanation in the actual proposed rule language.

Commissioner McLean suggested that Ms. Nichols-Young create some additional language and provide that to the Department.

Bruce Taubert, Assistant Director, Wildlife Management Division, recommended changing the language to read: If an individual who suffers property damage as a result of a depredating bear or mountain lion per ARS 17-302, may contact a hunter.

Public Comment

Don Martin, Mohave Sportsman Club, addressed the Commission in support of the two part tag, but he had some concerns; bighorn sheep were not included under R12-4-302 I.2.a. Frequently, you need a two part tag when packing a sheep out of remote areas, or onto two different places, the taxidermist and the meat processor. Also, sheep were not included in R12-4-302 J.2.a.

Mr. Ferrell stated that this was proposed rulemaking and this is the Department's first attempt at rolling this out for public input. Changes can be made today or we can wait until we have further public input.

Commissioner McLean suggested that Mr. Martin send his proposal in writing to the Department.

Public Comment

Mike Burris, Wildlife Conservation Council, supports the 10 day reporting period to produce the animal and the 48 hour call in period for lions and bears. It's important that the Department collect this data. His organization is also in support of the predator management plan.

Motion: McLean moved and Hernbrode seconded THAT THE COMMISSION VOTE TO APPROVE A NOTICE OF RULEMAKING DOCKET OPENING AND A NOTICE OF PROPOSED RULEMAKING TO AMEND ARTICLE 3 RULES, DEALING WITH THE TAKING AND HANDLING OF WILDLIFE, TO AUTHORIZE THE USE OF A TWO-PART TAG, ESTABLISH A "LIVESTOCK PREDATION" SEASON, AND PRESCRIBE ADDITIONAL CHECK-OUT REQUIREMENTS FOR MOUNTAIN LION HUNTS. THE NOTICE WILL BE SUBMITTED TO THE SECRETARY OF STATE'S OFFICE FOR PUBLICATION IN THE *ARIZONA ADMINISTRATIVE REGISTER*.

Vote: Unanimous
Melton absent

Commissioner McLean noted that there will be a public hearing on October 15, 2005, and suggested amendments be sent to the Department as soon as possible.

Motion: McLean moved and Hernbrode seconded THAT THE COMMISSION VOTE TO AUTHORIZE THE DIRECTOR TO DESIGNATE A PUBLIC HEARING OFFICER TO COORDINATE AND FACILITATE THAT MEETING.

Vote: Unanimous
Golightly and Melton absent

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8. Call to the Public

Marty Cowie, representing himself, addressed the Commission stating support for the 10% cap and regrets that the Department is not able to collect all fees upfront via the Internet. Also, another idea for the draw procedure is to have more than two draws. Instead, have one draw for first choice, one draw for second choice and so on. Then hunters would put in for the hunt that they really want, even if it's not the premium hunt, and it would help the hunter who really wants the premium hunt. Why should a hunter get drawn for his second choice, when another has not been drawn for his first choice.

Jon Fugate, Yuma Valley Rod and Gun Club, clarified why the paper draw was so important to his club. The fewer people that apply for a hunting opportunity in the State of Arizona, the better chances of being of being drawn. It's easier to apply online and it's easier to apply when you don't have to pay upfront, but the bottom line is whether or not you get drawn.

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Meeting recessed for a break at 1:06 a.m.

Meeting reconvened at 1:16 a.m.

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9. Future Agenda Items

Mr. Ferrell reported on future agenda items captured in this Commission meeting.

- In regards to the Big A Allotment, pursue habitat restoration of burned habitat and engage in planning efforts for the Big B Allotment.
- The Department needs to provide a presentation on the land trust initiative and provide some staff work sufficiently in advance of the September Commission meeting, allowing the Commission to review it and be prepared to discuss.
- Look into stiffening the aerial hunting law as well as pursue the idea of allowing revocations for violations of that statute or rule.
- Increase the scope of the search for shooting range sites another five miles within the radius of Flagstaff.
- Increase the Wildlife Conservation Fund budget for shooting sports up to \$300,000 for FY06 and offset cost by any available grants or donations that we might find opportunities to acquire. In addition, actively seek fund raising that may also increase the shooting sports budget beyond that \$300,000.
- Approve funding for all four shooting range grant applications as presented and offer the balance of 2006 Range Grant Funds to competition through the November 2005 application period.
- Assist the White Mountain Sportsman's Club in developing their request for grant funds to improve the access road into their shooting range.
- Add \$100,000 of the Wildlife Conservation Fund, already allocated for shooting sports, to the current grant cycle that closes in November, for shooting range grants to allow that total to be \$200,000.

- By October 2005 Commission meeting, present an RFP for third party operations of all alternatives to the operations of the Ben Avery Shooting Facility, as well as a proposal for Department operations of the range, and further, discuss with City of Phoenix staff the potential for an IGA that doesn't divest Commission authority to manage the range.
- If possible, return to the online draw for the spring of 2006.

Chairman Gilstrap added one item. In the near future the National Shooting Foundation will be in Arizona talking to the Tucson Trap and Skeet Club about the potential of hosting the Skeet and Sporting Clays National Championship next year, mid-summer. If that comes to pass, he would like the Commission to support that event.

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17. Commission Committee Appointments

Presenter: Duane Shroufe, Director

Chairman Gilstrap appointed individual Commissioners to the following standing committees for the remainder of 2005 through 2006.

- Commissioner Hernbrode - Heritage Public Advisory Committee
- Commissioner McLean - Habitat Partnership Committee
- Commissioner Melton - Landowner-Lessee /Sportsman's Relations Committee
- Commissioners Gilstrap and Melton - Shooting Range Economic Development Committee
- Commissioner Golightly - Wildlife Assets Committee

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18. FY 2007 COLBI Budget Modifications

Presenter: Mark Weise, Development Branch Chief

The FY 2007 Capital Outlay/Building Improvement (COLBI) budget was initially presented and approved by the Commission as part of the Department's 2006-2007 biennial budget package. However, since that time the Department has identified the need for several modifications to the originally approved project list and additional monies became available that could be used to fund multiple facilities improvement projects. The Commission was provided with a funding summary and brief description of the projects being submitted for approval prior to this meeting.

Motion: Hernbrode moved and McLean seconded THAT THE COMMISSION VOTE TO APPROVE THE MODIFICATIONS TO THE FY 2007 COLBI BUDGET.

Vote: Unanimous
Melton absent

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15. Litigation Report

Presenter: Jim Odenkirk, Assistant Attorney General

A copy of this report was provided to the Commission prior to today's meeting and is included as part of these minutes. There were no further updates from Mr. Odenkirk and the Commission had no comments or questions.

Director Shroufe asked the Commission for direction on Goal #6 of his Director's Goals and Objectives, Ensure Revenue Streams and Find New Sources, and under that item, Work at the State Level to Find New Sources and Explore Opportunities for all Customers to Contribute. One of the preliminary actions needed is the approval to do a survey asking the public questions pertaining to different ideas and what would be most acceptable to the public on finding new sources of funds for the Department. The Department has a consultant to prepare questions for the survey, and those questions will be forwarded to the Commission by next week for review. The Department is looking for input on the questions from the each individual Commissioner and their input will not be shared with the other Commissioners.

Motion: Golightly moved and Hernbrode seconded THAT THE COMMISSION VOTE TO GIVE THE DEPARTMENT AUTHORITY TO CONTINUE WITH THAT SEARCH FOR NEW FUNDS IN REGARDS TO PREPARING AND SENDING OUT A SURVEY ASKING QUESTIONS TO THE PUBLIC.

Chairman Gilstrap stated that he would have preferred to cover this item earlier when there were more members of the public present.

Director Shroufe suggested that Chairman Gilstrap include this on his agenda in his meeting with the Governor next week.

Vote: Unanimous
Melton absent

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16. Call to the Public

None at this time.

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19. Director's and Chairman's Reports

Chairman Gilstrap reported that he attended the Western Association of Fish and Wildlife Agencies (WAFWA) meeting in Alberta, Canada, followed by some time spent fishing with family in Wyoming, and then attended the Scholastic Trap Shooting Program in Ohio.

Director Shroufe attended several meetings. First of all he met with Region II staff and the Executive Director of the Grand Canyon Trust and the Regional Director of the Conservation

Fund. This was in reference to the Conservation Funds purchase of the Two Mile and Kane allotments north of the river. We are in discussions with them on how we can cooperate in landscape management of those areas in conjunction with our intension to go ahead with management on the Strip, and for our mule deer population. The Department can play an important part and be an influence on how that land is managed in the future. Subsequent to that, we met with Region II personnel and the Forest Supervisor for the Kaibab, and at that meeting we discussed the potential for the four of us, the Conservation Fund, the Grand Canyon Trust, Kaibab National Forest and the Department to cooperate in those landscape habitat improvements.

Additional meetings included: The North American Wetlands Conservation Council meeting; a Region IV briefing on the Sonoran Pronghorn Project; the Pacific Flyway Council meeting where decisions were made that went to the Fish and Wildlife Service, ending up in the recommendations made to the Commission today; the WAFWA; the Bureau of Reclamation in regards to how the Department can be a solid partner in the Lower Colorado Multi-Species Conservation Plan -The Bureau of Reclamation is going to partner with the Department in renovating the Bubbling Ponds Fish Hatchery; also discussed Planet Ranch developments; met earlier this week with the Director of the Natural Resources Conservation Service, the Regional Forester, the State BLM Director, a representative from the National Park Service, the State Land Department, Department of Defense, and the State Director of the Bureau of Reclamation. We are going to try to get together in that kind of forum two to three times a year.

Director Shroufe presented the Commission with the Arizona Breeding Bird Atlas. A twelve year project that includes every species of bird that breeds in Arizona. This project was completed by the Department and many volunteers.

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20. Commissioners' Reports

Commissioner Golightly reported that he was included in the meeting at Camp Navajo in reference to shooting range sites; attended the WAFWA meeting; met with the Board Supervisors along with Mr. Ferrell and was involved with the presentation to the Maricopa County Board of Supervisors regarding the Shooting Range Development Committee; and met with the Navajo Nation along with the Director regarding the Big Boquitas Ranch.

Commissioner Hernbrode reported that he met with Southern Arizona Sportsman's Alliance twice; met with the League of Conservation Voters, Sky Alliance, Defenders of Wildlife, Pima County Natural Resources, Southern Arizona Wildlife Callers, Arizona Heritage Alliance, American Birding Association, and Sierra Club; is scheduled to meet with the Governor's Office and the National Rifle Association; worked with Department staff on the 10% cap; and is working with Department staff on developing the New Arizona Wildlife Viewing Guide.

Commissioner McLean reported that he met with Department staff on the 10% cap and attended the WAFWA meeting.

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21. Approval of Minutes

Motion: Hernbrode moved and McLean seconded THAT THE COMMISSION VOTE TO APPROVE THE MINUTES FOR JANUARY 21, 2005; FEBRUARY 11, 2005; MARCH 11 AND 12, 2005; APRIL 15 AND 16, 2005; MAY 20, 2005; AND MAY 24, 2005.

Vote: Unanimous
Melton absent

The Commission signed the minutes for September 22, 2004, October 29, 2004, December 10-11, 2004, and January 4, 2005.

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Meeting adjourned at 2:00 p.m.

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W. Hays Gilstrap, Chairman

Joe Melton, Member

Michael M. Golightly, Member

William H. McLean, Member

Robert Hernbrode, Member

ATTEST:

Duane L. Shroufe
Secretary and Director